

## The Gazette



## of India

PUBLISHED BY AUTHORITY

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**No. 49] NEW DELHI, SATURDAY, DECEMBER 8, 1962/AGRAHAYANA 17, 1884**


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## NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 29th November, 1962 :—

Issue No.	No. and Date	Issued by	Subject
346	S.O. 3557, dated 26th November, 1962.	Ministry of Commerce & Industry.	Declaring that no person shall enter into any forward contract for the sale or purchase of Kapas (unginned cotton) save with the permission of the Central Government.
347	S.O. 3558, dated 26th November, 1962.	Ministry of Finance	Declaring that it propose to undertake mining operations in respect of gold in the State of Mysore in the area specified in the Schedule appended.
347-1 A	S.O. 3558-A, dated 26th November, 1962.	Ministry of Commerce & Industry.	Draft Amendments to the Trade and Merchandise Marks Rules, 1959.
348	S.O. 3559, dated 27th November, 1962.	Ministry of Information & Broadcasting.	Approval of films specified therein.
	S.O. 3560, dated 27th November, 1962.	Ditto	Corrigendum to Order No. 3276 dated 22nd October, 1962.
349	S.O. 3643, dated 29th November, 1962.	Ministry of Commerce & Industry.	Declaring that no person shall enter into any forward contract for the sale or purchase of Copper, Zinc, Lead or tin save with the permission of the Central Government.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

**PART II—Section 3—Sub-section (II)**

**Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).**

**ELECTION COMMISSION, INDIA**

*New Delhi, the 31st October 1962*

**S.O. 3653.**—In pursuance of Section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 3rd October, 1962, by the Election Tribunal, Ahmedabad.

**BEFORE THE ELECTION TRIBUNAL AT AHMEDABAD**

**ELECTION PETITION No. 216 OF 1962**

**EXH. No. 172**

In the matter of the Election to the House of the People, Anand Parliamentary Constituency—Petition under the Representation of the People Act, 1951.

Patel Chhotabhai Desaiabhai, residing at Ajarpura, Taluka Anand, District Kaira, Gujarat State—*Petitioner.*

*Vs.*

1. Narendrasinhaji Ratansinhaji Mahida residing at Baroda.

2. Maniben Vallabhbbhai Patel, residing at Navjiwan Karyalaya, Ahmedabad—*Respondents.*

Messrs. Jasubhai B. Patel, B. B. Patel & J. C. Patel for the petitioner.

Messrs. B. K. Amin, U. P. Jadeja & C. N. Desai for Respondent No. 1.

Messrs. C. T. Daru and G. S. Barot for respondent No. 2.

Coram:—His Honour Mr. N. K. Vakil, B.A., LL.B., Member, Election Tribunal.

*Dated the 3rd October 1962.*

**JUDGMENT**

This is an election petition dated 10th April 1962 filed under section 81 of the Representation of the People Act, 1951, to have the election of respondent No. 1 declared void and to have respondent No. 2 to be declared elected or for a direction to have a fresh election. The petitioner has filed this petition as an elector in relation to the House of the People, Anand Parliamentary Constituency in Kaira District. Respondents Nos. 1 and 2 were candidates for the Anand Parliamentary Constituency in Kaira district of Gujarat State. The Anand Parliamentary Constituency consisted of the area comprised of the following:

*Parliamentary Constituency, Anand.*

Sr. No. & name of Parliamentary Constituency.	Date of Poll.	Sr. No. and name of Assembly Constituency.
	23rd February 1962.	90 Dhandhuka.
	21st February 1962	91 Umreth.
	25th February 1962	92 Anand.
	21st February 1962.	93 Suratl.
	25th February 1962.	94 Petlad.
	23rd February 1962.	97 Cambay.
	23rd February 1962	98 Matar.

The said constituency was a single member constituency. Respondent No. 1 was nominated as a candidate by the Swatantra Party. The symbol selected by the Swatantra party for the election was a "Star". Respondent No. 2 was a candidate of the Congress and the symbol of the Congress candidate was two bullocks with yoke on. These two were the only candidates and the result of the said election was declared by the Returning Officer on the 1st of March 1962 at Kaira. Respondent No. 1 had secured 1,69,116 votes as against 1,46,387 votes secured by respondent No. 2. Respondent No. 1, therefore, was declared as elected by a majority of 22,729 votes. The petitioner has averred that nearly 60% of voters out of the total number of voters in the Anand Parliamentary Constituency belong to Kshatriya Community.

2. The petitioner further states that Respondent No. 1, Natwarsinhaji Solanki (who shall hereafter be referred to as the said Solanki), Bhagwansinhaji Chhasatia (hereinafter will be referred to as the said Chhasatia) and Chhatrasinh Atalia (who hereinafter will be referred to as the said Atalia) are the leaders of eminence in the Kshatriya community of Gujarat and their followers had attached great value to their orders and instructions; that these persons had addressed several meetings of their followers and appealed to them that it was the 'Primary Dharma' of all their followers to help the candidature of respondent No. 1; that the said Solanki, Chhasatia and Atalia had given orders to all the Kshatriya voters of the said Constituency to vote for the first respondent on the ground of religion, caste and community. It is further averred that the said Solanki, Chhasatia and Atalia were the Agents and active supporters of the first respondent and they were acting with the consent of the respondent No. 1 and/or his election agent.

3. The petitioner alleges that the Respondent No. 1 had published a statement (Nivedan) under his signature under the heading "I HAVE LEFT CONGRESS TO CONVEY THE VOICE OF THE PEOPLE". This statement is attached to the petition as Annexure 'A'. In para 5 of the petition, the petitioner has quoted the translation of certain passages of the said Gujarati statement which is impugned as offending on the basis of it being an appeal to the Kshatriya community to support the candidature of respondent No. 1 as a Kshatriya. As it will be convenient to refer to the details of this Annexure under the particular issue, I do not think it necessary to mention them here. This appeal was made to the said community with the object of using it as a direct inducement to vote for respondent No. 1 himself and to refrain from voting for any other person on the ground of his religion, race, caste, and community for the furtherance of the prospects of his election and for prejudicially affecting the election of respondent No. 2.

4. It is also alleged that the said statement of the respondent No. 1 was further intended to promote feelings of enmity and/or hatred between different classes of Indian citizens on the ground of religion, race, caste and community for the furtherance of the prospects of his election.

5. The petitioner also alleges that this particular statement, Annexure 'A', was used in carrying on the propaganda on behalf of the respondent No. 1 by circulating it and by orally stating the contents of it to voters at public meetings and otherwise also by publishing the same in the daily paper "Swatantra Sarjan" dated 10th February, 1962 throughout the said Constituency. In para 8 of the petition, the petitioner has given the names of the villages where this propaganda was particularly carried out.

6. In the said statement Annexure 'A' of respondent No. 1, the words "JAI SOMNATH" have been used at the end and it is alleged by the petitioner that this expression has been used as it has a historical back-ground and has a special meaning and religious efficacy and significance to the Kshatriyas. 'SOMNATH' is the titular God of Kshatriya and the said words are used for exciting the Kshatriyas in the name of religion and also to promote the feelings of hatred between the different classes of citizens of India on the ground of religion, race, caste or community.

7. In para 10 of the petition, it is alleged that the circulation of the said statements in the Constituency as stated in the petition had greatly affected the prospect of respondent No. 2 from being elected and had interfered with the free exercise of the electoral rights of the voters in this Constituency, as the majority of the voters were ignorant, illiterate villagers and they were susceptible to such propaganda and have, therefore, undue influenced by such direct compelling appeal. By an amendment in the petition, para 10, the petitioner has averred that the respondent No. 1, by associating himself with dignitaries and religious persons and declaring a sin to vote otherwise, unduly influenced the voters under the exercise

of their right to vote. It is, therefore, alleged that the respondent No. 1 had committed corrupt practice within the meaning of section 123 of the Representation of the People Act, 1951.

8. The other allegation on which the petitioner basis his petition is that over and above the appeal on the ground of religion, caste or community made by the said Annexure 'A', the respondent No. 1, his agents and others with the consent of the respondent No. 1 had carried on a propaganda by the use of a religious symbol in several leaflets by saying and suggesting that the "Swatantra party" carried that emblem of the 'Star' of 'DHRUVA'. It is alleged that by this the respondent No. 1 and his supporters and agents suggested that the five qualities of the star of 'DHRUVA' of being eternal, firm, guide, resolute and devoted to religion were the virtues of the Kshatriya and as such they should vote for respondent No. 1. It is, therefore, alleged that respondent No. 1 and his agents and supporters with his consent gave a religious impetus to the propaganda by the use of this religious symbol and thus they obtained votes by appealing to the voters to vote on the ground of religion and by use or appeal to religious symbol. The leaflets on which the petitioner relies upon for this allegation are Annexures B(1) to B(6) attached to the petition.

9. The petitioner alleges further that the said Solanki, who was the Secretary of the Swatantra Party, had published and circulated a statement on 18th February, 1962 under his own signature. This leaflet is Annexure 'C' to the petition. The said statement was also published in the daily paper "Swantra Sarjan". That copy of the paper is annexure C(1) to the petition. In paragraph 13, the petitioner has quoted the offending part of that leaflet and publication. It is alleged that by this a direct appeal to vote for the first respondent on the ground of religion, race, caste and community has been made. It is further alleged that the said statement is an attempt by promoting feelings of hatred against different classes of citizens of India on the ground of religion, race, caste and community to furtherance of the prospects of the election of respondent No. 1 and for prejudicially affecting the election of respondent No. 2.

10. In addition to the above, the petitioner also relies upon a booklet Annexure 'B' and a leaflet Annexure 'E' to the petition for his allegation of the respondent No. 1 having committed the corrupt practice of undue influence within the meaning of section 123(2) of the said Act. It is not necessary to give the details of these two here, because at the hearing of the petition, this ground was given up and the petitioner has not relied upon these two leaflets.

11. The petitioner alleges further that the Secretary of the "Gujarat Kshatriya Sabha" (which is a body of the Kshatriyas) has conventions of Kshatriya workers of the Taluka at four places on the dates stated in para 17 of the petition. In the said conventions, respondent No. 1, Solanki, Chhasatia and others were present; that the leaflets announcing the holding of the said conventions contained the emblem of "JAI SOMNATH" and also recited the expression "JAI SOMNATH" and by doing so had committed the corrupt practice of use and appeal to a religious symbol. The leaflet containing the said offending material is annexure 'F' to the petition. It is alleged that the said conventions were held at the instance of or with the consent of respondent No. 1 with a view to soliciting votes for him on the ground of his caste and community. In the said conventions, it is alleged that appeal were made by the persons stated above and others to vote for the respondent No. 1 as a Kshatriya. The said conventions were attended by a large number of Kshatriya workers and leaders of the Talukas. It is alleged that in the meetings, respondent No. 1 and the said Solanki also told the voters to vote for the 'Dhruva Tara' the symbol of the Swatantra party and if they failed to so vote for the Swatantra party, they would be failing in their Kshatriya Dharma. Other words are also put in the mouth of these people and which are quoted in paras 18 and 19 of the petition.

12. It is alleged that similar conventions were held at other places also as mentioned in para 20 of the petition and, in all the said conventions, respondent No. 1 and the said Solanki and Chhasatia were present and had made similar appeal to the voters on the ground of religion, caste and community.

13. The petitioner in para 22 gives particulars of the various villages, the date and time of the meetings held by the Swatantra Paksh and its election propaganda committee at the instance of or with the consent of respondent No. 1; that the leaflets calling such meetings bear the names of the said Solanki and one Chimmanbhai Badubhai (who was the election agent of the first respondent). The said

leaflet is Annexure 'G' to the petition. It is alleged that in the said meetings, Chhimanbhai Dadubhai and Solanki had particularly appealed to the Kshatriyas to vote for respondent No. 1 as a Kshatriya and had also asked him to vote for Bahilal Patel, another candidate for the Swatantra Paksh for the Assembly.

14. Other meetings are alleged to have been called by the Swatantra Pagan by a leaflet Annexure 'H' with the petition. The names of the places etc. of the said meetings are given in para 23 of the petition. The said meetings are alleged to have been addressed by the first respondent, Chhasatia and Solanki, in which they appealed particularly to the Kshatriya voters to vote for respondent No. 1 and the other Swatantra party candidates contesting election for the Legislative Assembly.

15. Annexure 'I' to the petition relied upon by the petitioner is a leaflet announcing that the procession will be taken out on 23rd February, 1962 at Anand under the leadership of respondent No. 1 Bhailalbhai Patel; that such a procession was taken out and in the said meeting, a large number of Kshatriyas were present. The meeting was addressed by Chhasatia and Bhailalbhai Patel and in their address they had pressed the voters of the Kshatriya community to vote for respondent No. 1 as Kshatriya and also to vote for Bhailalbhai Patel, the other Swatantra party candidate.

16. It is alleged that Annexures A, B, C, D, and E were distributed by the agents of respondent No. 1 with his consent at all the meetings and conventions held by the respondent No. 1 and his agents with his consent.

17. The petitioner has, therefore, alleged the corrupt practices as under:—

- (i) Appeal on the ground of religion, caste, community and race;
- (ii) Appeal to and use of religious symbols;
- (iii) Undue influence by direct and indirect interference on the part of the candidates or his agent with the consent of the candidate with the free exercise of any electoral right, by attempt to induce the electors to believe that they may be rendered an object of divine displeasure or spiritual censure (by alleging that it would be a sin not to vote for respondent No. 1);
- (iv) Attempt to promote feelings of enmity or hatred between classes of the citizens of India on the ground of religion, race, caste and community.

These allegations, therefore, over corrupt practices as contemplated by section 123 clause (2) read with proviso (2), clause (3) and clause (3)(a).

18. As against this petition, respondent No. 1 has filed written statement Exh. 6. Respondent No. 1 has not admitted that in the parliamentary Constituency for which he was a candidate, 60 per cent of voters out of the total number of voters belonged to the Kshatriya community. He has denied the allegation that Natversinhaji Solanki, Bhagwansinhji Chhasatia and others were the heads and leaders of eminence of the Kshatriya community. He has denied in details the facts asserted in the petition regarding the attempt on the part of the petitioner to make out the said persons as leaders of the Kshatriya community.

19. With regard to the allegations made by the petitioner, that in various meetings and conventions, respondent No. 1 and persons named in the petition had appealed to the voters to help the candidature of the first respondent on the ground of religion, caste or community. Respondent No. 1 has dealt with in his written statement in details the allegations in this respect and denied all the allegations in respect thereof, whereby the petitioner tried to make out that the respondent No. 1 or his agent with his consent had committed any of the corrupt practices.

20. Regarding his own statement Annexure 'A' with the petition, respondent No. 1 denied that by this statement an appeal was made to the Kshatriya on the ground of religion, caste or community, to vote for him. He has denied that any propaganda was carried on by him or anyone on his behalf with his consent to appeal to the voters of the Kshatriya community on the ground of religion, caste or community, as alleged by the petitioner. He has further denied that the expression "JAI SOMNATH" had historically acquired any special meaning or any religious efficacy and significance as alleged by the petitioner. He also denies that "JAI SOMNATH" was a titular God of the Kshatriyas. It is also denied that the said expression was used for exciting the Kshatriyas in the name of religion

or for exciting their religious feelings and thereby to promote any feeling of hatred between different classes of citizens of India as alleged. He avers that the expression "JAY SOMNATH" is only a national call and only an expression of greeting and that he had used the expression "JAY SOMNATH" in the said Annexure 'A' at the end only as a greeting, just as the expressions "Ram Ram", "Jai Sitaram" and "Jai Swaminarayan" are used as expressions of greetings. He has further stated that the Somnath temple itself, which is the source of inspiration of the words "Jai Somnath" has undergone well-known historical vicissitudes and has been reconstructed by a temple committee under the encouragement of Late Sardar Vallabhbhai Patel by the Government of India, and the opening ceremony of the reconstructed temple was performed by Dr. Rajendra Prasad, President of India. The respondent No. 1 therefore, avers that the Somnath temple itself is a national institution and the words "Jai Somnath" inspired by the said temple are only a national call and the words "Jai Somnath" are therefore just like the words "Jai Hind" used by Indians as a common phrase of greeting.

21. Respondent No. 1 has also denied in details all the allegations made by the petitioner regarding the use of the word 'DHRUVA' and words "STAR OF DHRUVA" in the leaflets B-1 to B-6 and other leaflets relied upon by the petitioner. He further denies that by the use thereof an appeal on the ground of religion was made. Respondent No. 1 avers that the word 'Dhruva' has no religious significance and that it carried no religious appeal Kshatriyas or to Hindus. He further avers that the reference is only to the star of "Dhruva" the pole star. This star is well known for its stationary character and other character as mentioned in the various leaflets and that the word "DHRUVA" has been used only to signify the qualities of resoluteness and stead-fastness; that by using the star of "Dhruva" the Swatantra party only tried to claim that it was as resolute and steadfast as that star.

22. Regarding Annexure C and C-1 with the petition, the leaflet and its publication in the paper, the respondent No. 1 states that this leaflet was published by Solanki, who was the Secretary of the Swatantra party, because a very disparaging cartoon showing respondent No. 1 riding a donkey was published in some papers. In the election propaganda, the Congress propagandists were making disparaging and unworthy remarks against the respondent No. 1 and the said Annexure 'C' published by Solanki was intended as a reply to such cartoon and such unjustifiable propaganda. Respondent No. 1 states that on a proper construction thereof, no part could be said to be objectionable as an election propaganda and that it was neither an appeal to the Kshatriyas to vote on the ground of religion or community, nor was it intended to promote feelings of enmity or hatred between any community, class or race. The respondent No. 1 denies that he had given consent to a publication or distribution of the said statement.

23. In short, the respondent No. 1 has denied all allegations and averments connected with this Annexure C and C-1 in details.

24. Regarding the Annexure 'D' the respondent No. 1 in para 21 of his written statement denied all the allegations. However as stated above, I need not elaborate on it, as at the trial petitioner has not relied on this Annexure for making out any ground of attack. The same being the case with annexure 'E'. I do not think it necessary to state the say of the respondent No. 1 in his written statement.

25. Regarding the averment of the petitioner of the various conventions of the Gujarat Kshatriya Mandal, the respondent No. 1 admits that those conventions as shown were held, but denies that in the said conventions, he or the said Solanki or Chhasatia or Chhatrasinha Atalia were present. He gives all the details in para 27 of his written statement regarding the places where himself and the other were present. For himself, he has stated that he was present only at the convention at Cambay. He also clarifies the position that all the places where the petitioner has described conventions to have been held were not conventions. All these details I do not think it necessary to go into at this stage. When necessary, it will be convenient to deal with it under the respective issues.

26. As regards Annexure 'F' to the petition, the respondent No. 1 denies that the alleged conventions were sponsored or held at his instance or with his consent. He also denies that any of the speakers in such conventions had appealed to those present to vote for the respondent No. 1 as a Kshatriya. He also in para 28 of his written statement contended that the word "DHARMA" used in the context means only "DUTY" and not "Religion" and 'Kshatriya Dharma' does not mean the religion of Kshatriyas, but only means duty. In the said para, he has denied the

interpretation placed by the petitioner on the words "Jai Somnath" regarding the leaflet annexure 'P' and the use thereof.

27. Respondent No. 1 in paras 29 and 30 of his written statement in details has made denials and also made his own submissions on the matters referred to in para 19 of the petition, which deals with the above-referred comments.

28. In reply to paras 20 and 21 of the petition respondent No. 1 has stated that the averment in the petition that other conventions were held in the towns mentioned therein, was not correct and that at most of the places mentioned therein, no convention was held. He further denies that in many of the alleged conventions referred to, he or Solanki or the said Chhasatia was present. He admits, however, that he was present only at Anand or Vadod convention and at Matar and also gives the details about the places where the other persons named were present, but denies these persons having made speeches as alleged.

29. In para 22 of the petition, the petitioner has given a long list of the places where the meetings were alleged to have been held by the Swatantra Paksh. The respondent No. 1 in reply thereto in para 33 of his written statement has contended that, except one meeting at Navli the other meetings, were not held on the alleged dates. He admits having attended some of the meetings mentioned. He also admits some of the meetings having been attended by Chimanbhai Dadubhai Desai, who is his election agent, but affirms that none of the meetings was attended by the said Solanki. The respondent No. 1 denies that the said meetings were sponsored at his instance or with his consent. He further denies that the said Solanki is his agent. The respondent No. 1 in para 34 of his written statement denies that the said Solanki or anyone ever appealed to the voters to vote on the ground of the respondent No. 1 being a Kshatriya. It is his case that both Chimanbhai Desai and Solanki whenever they had appealed they had appealed to the voters to cast their votes for the candidates of the Swatantra party. He denies that the Annexure 'G' to the petition was published or distributed with his consent.

30. As regards Annexure 'H', respondent No. 1 has stated that he shall rely for the true meaning and interpretation thereof, when it is produced, but he denies that in the meeting held thereafter, he or the said Solanki or Chhasatia had appealed to the Kshatriya voters to vote for him.

31. Referring to para 24 of the petition where in the leaflet Annexure 'I' is mentioned, respondent No. 1's case is that such a leaflet was published and circulated by the Secretary of the Swatantra party, but it was not at his own instance or with his consent. He denies the fact that out of 15,000 persons, who were alleged to be present, about 5,000 to 6,000 voters were Kshatriyas. He denies that either he himself or the said Chhasatia or Bhallabhai Patel had in the course of their speeches at the meeting held, after the notices Annexure 'I' made any appeal to voters to vote for the first respondent as a Kshatriya.

32. In reply to para 25 of the petition, respondent No. 1 has denied that Annexures A, B, C, D, & E were distributed by any agent of his with his consent in all the meetings and conventions alleged by the petitioner. In short, he denies that he or his election agent or any of the agents or any supporters committed any corrupt practice. He also denies that any corrupt practice was committed with his consent. He further denies as alleged that the corrupt practice prevailed so extensively that the election was not a free election.

33. Respondent No. 2 has filed her written statement Exh. 7 in reply to the petition, which fully supports the petition and I do not think it necessary to state the contents thereof.

34. The following issues have been raised for consideration and determination of the various contentions raised by the parties. I may say that the issues which were first raised were recast and I shall be dealing with the issues as recast, for the determination of the various contentions raised by the parties:—

1. Whether the petitioner proves that respondent No. 1 or his agents with his consent or knowledge, published, circulated or distributed all or any of the statements, leaflets and booklets annexed to the petitioner others that are produced on the record, during and for the purposes of the election campaign?
2. Is it proved that any of the contents of such statement, leaflets and booklets had the effect of exercising undue influence by way of threat, terror, intimidation or compelling inducement so as to amount to

direct interference by respondent No. 1 or his agent with his consent or knowledge, with the free exercise of electoral right of voters?

3. Is it proved that any of the contents of the said statements, leaflets or booklets amounted to an appeal to voters, by the Respondent No. 1 or his agents with his consent, to vote or refrain from voting on the ground of his religion, race, caste or community for the furtherance of the prospects of his election and for prejudicially affecting the election of Respondent No. 2?
  4. Is it proved that the use of the word "Dhruva" with the symbol of the star or the use of the emblem of 'Somnath' amounted to use of a religious symbol?
  5. If so, is it proved that the Respondent No. 1 or his agent with his consent or knowledge used or appealed to any of the said religious symbols for the furtherance of his prospects of the election or for prejudicially affecting the election of Respondent No. 2?
  6. Is it proved that the contents of the statement 'A' and the leaflet 'C' annexed to the petition have the effect of promoting feelings of enmity or hatred between different classes of the citizens of India on the ground of religion, caste or community?
  7. Is it proved that Respondent No. 1 or his agents with his consent or knowledge promoted feelings of enmity or hatred between different classes of the Citizens of India on the ground of religion, caste or community by publishing and circulating the statement annexure 'A' with the petition and the leaflet annexure 'F' with the petition or by orally referring to the expression 'Jai Somnath' in their speeches in the meetings referred to in the petition?
  8. Is it proved that the Respondent No. 1 and his agents with his consent or knowledge appealed to the voters, in their speeches in the meetings and conventions mentioned in the petition, to vote or refrain from voting on the ground of his religion, race, caste or community for the furtherance of prospects of his election and for prejudicially affecting the election of Respondent No. 2?
  9. Is it proved that the result of the election had been materially affected by any corrupt practice committed by Respondent No. 1 or his agent with his consent or knowledge and committed in the interest of the Respondent No. 1?
  10. If any of the alleged corrupt practice is proved to have been committed by the Respondent No. 1 or his agent with his consent or knowledge, is it further proved that but for the votes obtained by the Respondent No. 1 by such alleged corrupt practice the Respondent No. 2 would have obtained a majority of the valid votes cast?
  11. What order?
35. My findings are:—
1. In the affirmative only in respect of annexures A, B-2, B-3, B-5, B-6, H & I. In the negative in respect of all the rest.
  2. In the negative.
  3. In the negative.
  4. In the negative in respect of the word "Dhruva" with the symbol of the star. In the affirmative in respect of the emblem of 'Somnath', but it does not affect the election.
  5. In the negative.
  6. Not pressed.
  7. Not pressed.
  8. In the negative.
  9. Not pressed.
  10. Not pressed.
  11. As per order.



# REASONS

36. Before I take up the respective issues and the facts concerned, it will be convenient to deal with the general principles of law and the provisions of the Representation of the People Act, 1951 as it stands amended on the date of this petition and having a bearing on the contentions raised in it.

37. As mentioned hereinabove, the petitioner has tried to challenge this petition only on the grounds of corrupt practices of (1) undue influence on the part of Respondent No. 1 or his agent or his supporters with his consent, as contemplated by Section 123 (2) read with proviso (a) (ii), that is to say, inducing or attempting to induce a voter to believe that he will become or will be rendered an object of divine displeasure or spiritual censure, though I may say that the pleading of the Petitioner on this point is not as specific or clear as it should be; (2) appeal by the Respondent No. 1, his agents or his supporters with his consent to vote or refrain from voting on the ground of his religion, race, caste, community as contemplated by Section 123 (3) of the Act; (3) use of and appeal to religious symbol as contemplated by section 123(3); (4) attempt to promote feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste and community as contemplated by clause 3(A) of Section 123.

38. It will be seen from the above mentioned relevant provisions of section 123 that the corrupt practices referred to therein shall be deemed to be corrupt practices for the purposes of the Act, whether they are committed by a candidate himself or his agent or by any other person. But the mere proof of these facts would not entitle the petitioner to have the election of the successful candidate set aside, he has to further show that he is entitled to do so as laid down by section 100 of the said Act. The relevant provisions of that section that has a bearing on corrupt practice read as follows:—

“100. Grounds for declaring election to be void:—

(1) Subject to the provisions of sub-section (2) if the tribunal is of opinion:—

(a).....

(b) That any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent, or

(c) .....

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected:—

(i) .....

(ii) By any corrupt practice committed in the interests of the returned candidate, by an agent other than his election agent, or

(iii) .....

(iv) .....

the tribunal shall declare the election of the returned candidate to be void.

(2) If in the opinion of the Tribunal, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice, but the Tribunal is satisfied:—

(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent, of the candidate or his election agent;

(b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and

(c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents, then the Tribunal may decide that the election of returned candidate is not void.

The important points to notice are:—

- (i) That so far as the ground (b) is concerned, the mere proof of the commission of a corrupt practice by the candidate, his election agent or any other person with the consent of either of them, without any reference to the effect caused on the result of the election by adoption of such corrupt practice, is enough to set aside the election. But when any other person or even an agent commits corrupt practice in the interests of the returned candidate, the election can be set aside only if the further fact is proved, that by such corrupt practice, the result of the election so far as it concerns the returned candidate is materially affected. The effect, therefore, is that if the Petitioner succeeds in establishing that Respondent No. 1 or his election agent or any other person with the consent of either, has committed even one of the corrupt practices alleged, the election shall have to be held to be void, apart from the fact whether the commission of that corrupt practice had any material effect on the result of the election or not.
- (ii) The other important aspect to be noticed is that even if the petitioner were to establish that any of the persons who supported the candidate, is his agent within the meaning of an agent as understood by election law, which aspect, I shall be dealing hereafter, still to succeed in having the election declared to be void, it will have to be further proved that such agent committed the corrupt practice with the consent of the candidate or his election agent. So, the important ingredient after the amendment of section 123 and section 100 is the proof of consent to the commission of the corrupt practice, if it is done by any other person, then the candidate himself or his election agent. The term 'any other person' would include even an agent, other than the election agent. Several acts have been alleged in this case to have been done by persons other than the Respondent No. 1 and his election agent and by the party or other organisations in the interest of the Respondent No. 1 and it has been argued before me that they were the acts of his agents but I will deal with these questions of 'agency' and of 'consent' when I go to discuss issue No. 1, as they have a direct bearing on the subject matter of that issue.
- (iii) There is, however, another important legal position which is necessary to be referred to before I go to discuss the issues and the evidence and that is the question of the nature of the election proceedings and the standard of proof required to establish the charges of corrupt practice. It is well-settled now that the charges of corrupt practice are quasi-criminal in character and the standard of proof required in order to establish a charge of corrupt practice in an election petition should be the same as in a criminal case. A number of authorities have considered and laid down the dictum regarding this important legal position and I will refer to a few important ones:—
  - (1) *Harish Chandra Bajpai V. Triloki Singh* 12 E.L.R. 461 (B.C.). Charges of corrupt practice being quasi-criminal in character, the allegations relating thereto must be sufficiently clear and precise to bring home any charges to the candidates.
  - (2) *Jayalakshmi Devamma V. Janardhan Beddi* 17 E.L.R. 302 (Andhra Pradesh High Court). Charges of corrupt practice are quasi-criminal in character and must be proved by evidence of a conclusive nature.
  - (3) *Dharanidhar Mohapatra V. Pradipte Kishore Das* 17 E.L.R. 427 (Orissa High Court). Section 106 of the Evidence Act is not applicable to the proof of corrupt practices. The provision that applies is the proviso to section 103 which lays down that the burden of proof of any particular fact lies on that person who wishes the court to believe in its existence.
  - (4) *Jagan Prasad Rawat V. Krishna Dutt Paliwal* 20 S.L.R. 443 (Allahabad High Court). It is the duty of the Petitioner to prove that ground of corruption affirmatively and for that purpose he has to rely, first and last, on the strength of his own evidence and not on the weakness in the evidence of the Respondent.

- (5) V. B. Raju V. V. Ramchandra Rao 21 E.L.R. page 1 (Andhra Pradesh High Court). Charges of corrupt practice are quasi-criminal in character—must be proved by evidence of a conclusive nature, in view of the fact that penal consequences flow from a disqualification arising out of a finding that a corrupt practice has been committed.
- (6) Badri Narain Singh V. Kamdeo Prasad Singh 21 E.L.R. 64 (Patna High Court). Onus of proof lies heavily on the petitioner. A charge of corruption is almost similar to a criminal charge—the charge must be therefore established by the Petitioner—conclusively and beyond any reasonable doubt. The Petitioner's case must stand or fall on its own legs. If the evidence adduced in the case is not sufficient to prove the charge, establishes a charge different from the charge levelled against the Respondent, the case of the Petitioner cannot be said to be proved and the election cannot be set aside.
- (7) Amjad Ali V. Nammul Haque 21 E.L.R. 345 (Assam High Court). Section 90 of the Act provides that the procedure to be followed is that applicable to a Civil Suit. That Section, however, does not indicate or lay down what should be the standard of proof necessary to hold a charge of corruption to be sustained. Procedure is something different from standard of proof.

In criminal trial, there is no onus on the accused to prove his innocence and the same principle will apply to an election case where charges of corrupt practice are made—charges of corrupt practice are quasi-criminal in character.

Evidence capable of doubtful interpretation will not answer the charges.

- (8) S. Kanadaswami V. S. B. Adityan 21 E.L.R. 435 (Madras High Court).

Though the procedure followed in election inquiries in Civil in form, the trial is a Criminal trial in substance, especially in view of the results and consequences that follow from the decisions in election petitions. Simply because the procedure to be followed in Civil in form, it does not follow that the amount of proof required for bringing home the charge to the Respondent, is reduced to that of an inquiry in a purely Civil proceeding as to give room to the theory of the balance of probabilities or shifting of the burden of proof. It is not open to Petitioner to urge that if he has proved a *prima facie* case against the Respondent, it is for the Respondent to rebut the case made out against him.

There is no burden on the Respondent to prove anything, the burden lies heavily on the person who alleges corrupt practice to prove it, the petitioner cannot simply prove certain suspicious circumstances and then call upon the person charged to explain those circumstances on the ground that those fact about which suspicion has been caused are within the special knowledge of the accused person.

- (9) Sangappa V. Shivamurthiswamy A.I.R. 1961 Mysore 106.

Charges of corrupt practice are quasi-criminal in character. Having regard to the grave consequences the proof to be produced in support must be sufficiently clear, unequivocal; suspicion being plainly insufficient, although the election Tribunal or a court investigating into the truth of the charge may not be bound by the strict practice applicable to criminal case.

- (10) Ahmedmiya Sherumiya V. Chippa Ibrahim Nuraji 17 E.L.R. 218 (Bombay High Court).

Section 123 of the Representation of the People Act 1951 must be strictly construed in favour of the person against whom the charge is preferred. Charges of corrupt practice must be strictly proved; and if there is any reasonable doubt, the benefit of that doubt must be given to the person against whom the charge is made..

- (11) Lachman Singh Gill V. Harparkash Kaur 22 E.L.R. 249 Punjab High Court.

The onus of proving corrupt practice lies on those who assert their commission and they have to be established beyond the possibility of a reasonable doubt. The evidence in their support need not necessarily be direct, but it is well settled that circumstantial evidence and the inference deducible therefrom must be such as to lead to the only reasonable conclusion of the commission of the corrupt practices alleged. No conjecture or surmise however attractive or even plausible can take the place of proof, and if two equally reasonable inferences or conclusions are possible, one innocent and the other guilty, the former should normally prevail.

39. A large number of election Tribunals have also followed these principles in matters dealt with by them, but I do not think it necessary to quote any more decisions. On behalf of the petitioner and Respondent No. 2, it was urged that in view of section 90 of the Representation of the People Act providing a procedure applicable to Civil Proceedings, the principles applicable to criminal proceedings should not be applied and considerations that arise in a criminal trial have no place in the proceedings before the Election Tribunal. But as pointed out above the consensus of opinion of almost all the High Courts and the Supreme Court is to the contrary and as this aspect of law has an important bearing in the consideration of the matters before me, I have dealt with it at length to indicate many of the facts of this important question as established by decisions of the various High Courts and the Supreme Court. Section 141 of the Representation of the People Act 1951 clearly shows the grave consequences that follow if a person is either of certain offences under the Penal Code as mentioned in clause (a) of that section or when a person is, upon a trial of an election petition under Part VI, found guilty of any corrupt practice. Both these persons are put on the same footing by those provisions. Words like 'guilty' and 'trial' are used in clause (b), which indicate that the nature of the proceedings contemplated by sub-clauses (a) and (b) are to be treated as of similar nature, as same grave consequences follow on the proof of either and therefore the standard of proof that would be required for proving the guilt under sub-clause (a) and that under sub-clause (b) should be the same. I, therefore, prefer to follow the consensus of opinion as indicated by the various rulings referred to above. I shall examine the facts and legal position in the instant case in the light thereof and will be referring to one or more of these principles laid down by the above rulings.

40. I will now take up the consideration of the issues. At the hearing, the learned Advocates for the petitioner and the respondent No. 2 very fairly stated that they have not been able to prove facts which would justify their pressing issues Nos. 6-7, 9 and 10. So the only issues which are pressed and on which arguments have been advanced are issue Nos. 1, 2, 3, 4, 5 and 8. So I shall only be dealing with these issues Nos. 1 to 5 and 8.

41. *Issue No. 1.*—This issue I will deal with in two parts (i) the question as to who are proved to be the agents of respondent No. 1 and (ii) what statements, leaflets and booklets are proved to have been circulated by the respondent No. 1, his election agent or agents with the consent of either the respondent No. 1 or his election agent.

42. Before I go to the question of fact of agency it is necessary to determine what is meant by an 'agent' so far as the election law is concerned. A large number of authorities were cited at the Bar on this point may, however, observe that this point need not be elaborately discussed because, as already mentioned under section 100, clause (b), what is required to be proved before an election can be set aside on the ground of any corrupt practice by even an agent is, that it was done with the consent of the candidate or his election agent, the mere fact of the person being an agent will not be enough to fasten the guilt on the candidate. In election proceedings, the word 'agent' has been given a wider connotation than under the common law. The doctrine of constructive agency is recognised in election law and every person who works or canvasses for the candidate with his knowledge or consent are held to be agents of a candidate. There are rulings which have held that, if a candidate is set up by a party, the party itself as well as its prominent members must be held to be his agents, actual appointment of the party organisation or members as his agent need not be proved. It would be sufficient to show the relation and the recognition by the candidate of the acts of such person or even the absence of prohibition. It has also been laid down that 'an association of persons' or a 'society' or a 'political party' and its prominent members, who set up the candidate sponsor his cause and work to promote his election prospects may apply be called the 'agent' of the candidate. Vide the cases of *Triloki Singh V. Shivrajwati Mehru* 16 B.L.R.

234 (Election Tribunal, Lucknow). Sudhir Laxman Hendre V. S. A. Dange 17 B.L.R. 373 (Bombay High Court) and Nani Gopal Swami Vs. Abdul Hamid Choudhury 19 E.L.R. 175 (Assam High Court). Those are one set of rulings which support the above observations relied upon by the petitioner and respondent No. 2. But at the same time, other important principles laid down by a series of decisions regarding this question of 'agency' have to be remembered that a candidate set up by a party cannot be held responsible for all that the members of the party did in furtherance of the interests of the party organisation as a whole, unless the participation therein of the particular candidate expressly or by necessary implication is proved. All the members of the party cannot be held to be agents of the candidates set up by the party; agency has to be established as required by law. It is also laid down that if it can be established from circumstances that the candidate had knowledge of the fact that a newspaper, which is the organ of his party, and that the article contained certain imputation and if he did not take any steps to stop publication, his consent to the publication can be inferred. But knowledge of the contents subsequent to its publication does not impose the duty on a candidate to publish some repudiation of the allegations contained in the publication or lead to an inference that he had consented to the act prior to the publication. The publication of an offending article in a paper or a leaflet, proved to have been circulated and is read by the public would be sufficient publication in the eye of law to constitute corrupt practice alleged, provided it is further found that the said publication was at the instance or with the consent of the candidate. The real point is that the publication must be proved to be with the consent of the candidate. *Vide* the cases of Badri Narain Singh V. Ramdeo Prasad Singh 21 B.L.R. 64 (Patna High Court), Rustom Satin V. Dr. Sampooranand 20 E.L.R. 221 (Allahabad High Court), Biswanath Upadhaya, V. Haralal Das 16 B.L.R. 406 at pages 406-407 (Assam High Court) and Nani Gopal Swami V. Abdul Hamid Choudhary 19 E.L.R. 175 (Assam High Court).

43. That brings me to the consideration of the fact as to who could be called agents of respondent No. 1 in the instant case. I will touch this point very shortly as the real question of importance is of proof of consent and not who were the 'agents' of respondent No. 1. It is urged on behalf of the petitioner that the 'Swatantra Party' and the 'Gujarat Kshatriya Sabha' and the prominent workers and members of both should be deemed to be the agents of the respondent No. 1 for the purposes of the election. I think this submission is well-founded. It has been established and acknowledged that the respondent No. 1 was the candidate of the Swatantra Party and had fought the elections such. It is further established that an association known as the 'Kshatriya Sabha' for the uplift of the Kshatriya in particular, had been in existence from about 1945 and that the respondent No. 1 was a prominent member thereof being its first president and had continued his relations therewith till the date of election. It is further established that this association had taken part in the election propaganda to support the Swatantra Party candidates including the respondent No. 1. I have, therefore, no hesitation in holding that the Swatantra Party, its members and committees and the 'Kshatriya Sabha' and some of its members are to be considered as 'agents' of the respondent No. 1. As to which particular members the 'Kshatriya Sabha' or the other individuals named and alleged to be the agents of the respondent No. 1 were his agents in fact, I shall deal with hereafter. But the mere fact of the said 'party' or 'Sabha' or their members or committees having been held to be respondent No. 1's agent, as seen above, will not be enough, to fasten upon the respondent No. 1, the guilt, if any, of any corrupt practices done by these agents, unless the consent or knowledge of the respondent No. 1 is established for the acts which are alleged to amount to corrupt practices, done by either of the agents.

44. That brings me to the next stage of consideration of the question which of the booklets, leaflets and statements alleged by the petitioner to constitute corrupt practices were published or circulated with the consent or knowledge of respondent No. 1. This necessarily takes us to the consideration of the question of 'consent' first. The parties have cited before me a number of authorities on this point also. I shall, however, refer to some of the important ones out of them. It is a well-established principle that so far as the election law is concerned, consent may be either express or may be implied or may be assumed by necessary implication and an act can even be presumed to be an act of the principle, if the act is subsequently ratified. But clear and unequivocal proof in that respect is essential and the mere fact that a candidate did not disown an act is not sufficient to prove that he had ratified or given consent to the same. *Vide* the case of Kataria Takandas V. Pinto Frederick Michael 18 L.L.R. 403 (Election Tribunal, Surat). The case of Sarladevi Pathak V. Birendra Singh 20 E.L.R. 275 (Madhya

Pradesh High Court) lays down that consent is a question of fact in every case; it may be expressed or implied; it may be inferred from the acts and conduct of the returned candidate or from other facts and circumstances established in the case. But the mere fact the acts of other persons helped and supported the election campaign of the returned candidate, would not be enough, even *non-interference* with the activities of the persons who may be acting in support of his canvass will not without something more, be sufficient to saddle the returned candidate with the liability for the corrupt practices committed by them. The case of *Biswanath Upadhyaya V. Haralal Das* 16 E.L.R. 405 (Assam High Court) has laid down that the knowledge of the contents of a leaflet, or an article, subsequent to its publication, does not impose a duty on a candidate to publish some repudiation of the allegations contained in the publication or lead to an inference that he had consented to the act prior to the publication, even though such publication may be by an agent of the candidate. The same ruling establishes that the consent of the candidate has to be incurred from the circumstances and it may be direct or indirect and it is a question of fact, which must be established by the petitioner.

45. With this back ground of the position of law, I shall now deal with the respective leaflets, statements and booklets relied upon by the petitioner as constituting the corrupt practices alleged and the guilt whereof the petitioner wants to fasten on the respondent No. 1. With the petition, the petitioner has produced as annexures, statements and leaflets, the contents whereof go to formulate, according to him, the corrupt practice alleged by him. As regards these annexures, the respondent No. 1 in his evidence Exhibit 137 has admitted that he had himself got the statement Annexure 'A' printed and published and that this statement was also circulated and explained in many of his meetings. He further admits that he had seen Annexures B-2, B-3, B-5, B-6, F, H and I having been distributed. He further states that so far as the Annexure 'G' was concerned, though it was printed it was never distributed, as the programme was cancelled. He emphatically denied having ever seen the leaflets Annexures B-\*, B-4, C, D and E. He also denies knowledge of these having ever been distributed. He also denied to have seen any other leaflets having been distributed or having come to his knowledge. Therefore, it may be taken that the respondent No. 1 had knowledge about the contents and distribution of the Annexures B-2, B-3, B-5, B-6, F and H. But the question still remains as to whether it has been sufficiently established that there was consent either direct or implied to all the contents of those Annexures being printed and published. Annexures B-2, B-3, B-5, B-6 are the publications by the Swatantra Paksh or its election campaign committees. B-2 is the manifesto of the Swatantra Paksh itself and the respondent No. 1 has admitted this fact and its circulation. He also has categorically stated that as this was the manifesto of his party, it was his manifesto also. Therefore, if anything from this manifesto can amount to corrupt practice, the consent of the respondent No. 1 would be assumed to have been given to this publication and he would also be guilty of the corrupt practice. It may be noted that so far as this annexure is concerned, the impugned portion is the last page, where the symbol of the party is indicated and where the words "DHRUVANO TARO" and the five attributes have been stated. The impugned portions on Annexures B-3, B-5, B-6 are also the use of the words 'DHRUVANO TARO'. Whether this use of the words 'DHRUVANO TARO' and the attributes as mentioned above amounts to corrupt practice or not, will be the subject matter of another issue. I think so far as these Annexures B-2, B-3, B-5 and B-6 are concerned, there is ample evidence to hold that there was implied consent, if not express, of the respondent No. 1 to the use of the words 'DHRUVANO TARO' and the five attributes referred to above. This is particularly so because he has categorically admitted the manifesto Annexure B-2 to be his own manifesto and which bears the words 'DHRUVANO TARO' and also the five attributes. It is of course a matter of contention between the parties as to whether these attributes apply to the star or to a religious entity in Hindu mythology known as 'BHAKTA DHRUVA'. This will be considered at the proper stage. So far as Annexures H and I are concerned, there is nothing that can be said to be amounted to a corrupt practice and nothing is alleged.

46. Annexure 'F' however, stands on a different footing. Annexure 'F', over and above using the words 'DHRUVANO TARO' has used the words 'JAI SOMNATH' and some emblem which is alleged to be the emblem of God Somnath. Therefore, this requires a special consideration. Whether the use of these words and emblem amount to corrupt practice or not is a different question and will be considered later. The only question to be considered here is whether the consent of the respondent No. 1 before this leaflet was published, should be taken to have been proved or assumed. So far as the respondent No. 1 himself is concerned in the Gujarati deposition of his Exhibit 137, his statement regarding

this leaflet 'F' is that this leaflet may have been distributed. In his evidence, there is nothing from which it could be said that the respondent No. 1 even by implication be taken to have given his consent to the use of the emblem or the words 'JAI SOMNATH' on this particular leaflet. Even if we examine evidence of the other witnesses of the respondent as well as of the petitioner, I do not find anything or any circumstances established which, by necessary implication, can be said to prove his consent to the use of this emblem or the offending words. My attention was drawn to the fact that in his leaflet Annexure 'F' which is a notice for calling meeting by the 'Gujarat Kshatriya Sabha', it has been mentioned that several persons will remain present at the various meetings to be held at various places and in the persons so named, respondent No. 1 has also been named and this is a circumstance which shows that his consent must have been taken and that is sufficient to establish his consent or knowledge of the full contents of this leaflet. I do not accept this contention. In the first place, merely because the name had been mentioned, it does not mean that he had consented to what the leaflet shall contain. At the most, his consent would be assumed to be present at the various places mentioned. But even there, if we go to the evidence of the respondent No. 1 Exhibit 137, we find that he has stated, in the notice of meetings, the names of several persons were mentioned but as a matter of fact, all those persons did not attend all the meetings held. But even if for argument's sake the consent to attend the meetings is assumed, it does not help the petitioner to establish the respondent No. 1's consent to the use of the offending words or the emblem. It is further contended that the respondent No. 1 Ex. 137 has admitted in his evidence that he had never taken any objection to the notices convening the meetings and therefore the respondent No. 1 cannot escape the effect of the use of the emblem and those words. But I find that this contention also is not well-founded because, as already pointed out by me while discussing the law on the point, it has been decided by more than one High Court that the subsequent knowledge of such a publication could not fasten the corrupt practice, if any, on the candidates and also that there was nothing in law to cast any burden on him to disown or repudiate any such offending publication, to save the candidate from the effect of that publication, if it amounted to corrupt practice. It is now well established that his knowledge or implied consent should be positively established before the offending portion was published. For the purposes of this issue, therefore, on the principles laid down by a large majority of the High Courts and the Supreme Court that in proceedings before the Election Tribunal, the standard of proof required is the same as in a criminal proceeding and that the onus of proof lies heavily on the petitioner and further that there is no burden on the respondent if he came to know about it later to repudiate the alleged offending portion thereof, I find difficult to hold that the petitioner has succeeded in bringing home the knowledge or consent of the respondent No. 1 regarding the use of this emblem and the words in this particular leaflet. I will refer to this leaflet again when I will consider the question of the use of this emblem and the words 'JAI SOMNATH' when I deal with the question of the corrupt practice alleged for use of an appeal to religious symbols. But here, I hold that the use of an appeal to religious symbols. But here, I hold that the use of this emblem and the words have not been proved to have been made either with the knowledge of even the implied consent of the respondent No. 1.

47. There is one more annexure on which strong reliance is placed by the petitioner for alleging one of the corrupt practices and that is the Annexure 'C', for which also respondent No. 1 is tried to be made responsible. The respondent No. 1 has said that he had not seen it during election time. No question have been asked in cross-examination challenging him on this statement. Annexure 'C' is a statement of Natwarsinh Solanki Exhibit 139, the Secretary of the Kshatriya Sabha and the organisation Secretary of the Swatantra Party. He is one of the witness of respondent No. 1. He has explained the reason why he had published this statement. But from his evidence, it cannot be said that consent of respondent No. 1 was obtained to publish this statement. Even no suggestion is made to him that it was published with the consent or knowledge of respondent No. 1. My attention was drawn again to the evidence of Solanki Exhibit 139 where he has said that he used to send the leaflet that he himself prepared to the candidate and therefore it must bring home the knowledge or implied consent of the respondent No. 1. But I do not think it can be so held as it cannot establish even implied consent because the knowledge of the fact of such a pamphlet before it is published must be established, if respondent No. 1 is to be held responsible. There is nothing to prove that respondent did or must have come to know about prior to its printing or publication. It was

election time and the candidates must have been moving from place to place. So, there is nothing to show even that respondent No. 1 and Exhibit 139 Solanki were even at one place during the time it was written and published. So, there is no evidence whatever to hold beyond reasonable doubt that respondent No. 1 must have consented or must have come to know about it from which implied consent could be presumed. As already discussed, knowledge subsequent to publication and non-repetition, cannot help the petitioner to make out 'consent' as required by law. I, therefore, hold that it is not proved that that Annexure 'C' was prepared or published with the 'consent' express or implied of the respondent No. 1.

48. There are two more annexures to the petition, a booklet Annexure 'D' and a leaflet Annexure 'E'. The learned Advocates for the petitioner and respondent No. 2, at the time of the hearing, had stated at the Bar that they were not relying upon these two annexures for any purpose and, therefore, they need not be taken into consideration for the decision in this matter.

49. Over and above the annexures with the petition, the petitioner has tried to rely upon, particularly on four more documents, to prove corrupt practices alleged by him; (1) Exh. 28, a notice inviting the Kshatriyas to a meeting at Cambay on 30th January 1962 by the Gujarat Kshatriya Sabha, Nadiad; (2) Exh. 29 is another notice for invitation to a meeting at village Thasara, dated 23rd January 1962 issued by the President, Thasara Taluka Kshatriya Sabha; (3) a statement made by one Chhatrasinh Atalia published under his own signature which is Exh. 83; and (4) a report appearing in the Gujarati paper "GUJARAT KESARI", dated 12th April 1961. This report purports to be report of the speeches made at village Saloon in the convention of the Kshatriya Sabha by various speakers, particularly by Chhatrasinh Atalia and Udesinh Vadodia. I will deal with the first two together and the other two separately.

50. These Exhibits 28 and 29, the notices for the said two meetings are particularly relied upon on behalf of the petitioner for the use of the emblem and the words 'JAI SOMNATH' at the top of these printed leaflets. It is alleged on behalf of the petitioner that these are religious emblems and therefore their use amounts to a corrupt practice. All the reasonings and discussions stated hereinabove regarding Annexure 'F' apply *mutatis mutandis* to these two leaflets also and I do not think it necessary to report them over again here, and, for the same reasons, I hold that there is nothing to prove the consent, express or implied, of the respondent No. 1, to the use of publication of these two leaflets.

51. As regards Exh. 83, so far as the respondent No. 1 is concerned, he has denied having seen this statement made by Chhatrasinh Atalia any time at the time of the election. At this stage, what I am concerned with is to find whether even if it is assumed for argument's sake that the respondent had come to know about it any time subsequent to its being printed and published, whether there is any evidence to show or circumstances established which would prove that the respondent No. 1 had knowledge of this statement being published or it could be said that he had given an implied consent. As I have already stated, so far as he is concerned, he has definitely denied all knowledge of it. My attention was drawn to the fact that though in the beginning, Natwarsinhji Solanki Exh. 139, the organising Secretary of the Swatantra Paksh at the time of the election, tried to evade any knowledge about this statement Exh. 83 of Atalia, ultimately in cross-examination he has admitted that this statement was paid for by the Swatantra Paksh. He also admits that he had seen it during the election time at Nadiad, but he states that he had not prepared the contents thereof and that it must have been sent to him for being printed by Chhatrasinh Atalia. It is also urged that the witness Ex. 111 for the petitioner has proved that this Ex. 83 was got printed and paid for by Solanki. Even if these facts are given full weight, I fail to see how under law it can be established that this leaflet Exh. 83 was printed and got published to the knowledge of the respondent No. 1 or his implied consent could be assumed. There is nothing in the evidence of the witnesses of the respondent No. 1 or those of the petitioner himself of his own evidence, which would go to prove such circumstances or fact of knowledge. Merely because it is proved that this particular pamphlet was paid for by the Swatantra Paksh, it cannot be said that it is enough to fasten respondent No. 1 with consent to publish the contents thereof, as required by law. The rulings referred to above would clearly go to show that the evidence on record is not enough to impute 'consent' to the respondent No. 1, particularly the ruling in the case of *Badri Narain Singh V. Kamdeo Prasad Singh* 21 E.L.R. 64 (Patna High Court), where it is held that a candidate set



up by a party cannot be held responsible for all that the members of the party did in furtherance of the interests of the party organisation as a whole, unless the participation therein of the particular candidate or his election agent, expressly or by necessary implication, is proved. All the members of the party cannot be deemed to be agents of the candidate set up by the party. There is yet a further fact to be noted and that is this that Atalia himself was the candidate for the Legislative Assembly of the Swatantra Paksh in the same area. Therefore, it is not unjustifiable to presume that in order to advance his own candidature, he got this statement published under his own signature. As already discussed, it is very important to bear in mind that all the ingredients, which would go to make the respondent No. 1 guilty of a corrupt practice, must be proved beyond reasonable doubt, and if there is probability that the candidate attacked could be innocent of this allegation of consent, direct or implied to the publication of this statement, which is alleged to be a strong proof of the corrupt practices complained of, then the Tribunal should give that benefit to the candidate. I feel that here there are facts proved on the record which go to show that it is improbable that the consent of the respondent No. 1 had been taken for publication of the contents of this statement Ex. 83, or that he had knowledge of such a statement going to be published. It is very important to note that here the respondent No. 1 is tried to be held guilty of a corrupt practice having been committed by another person, that is, Chhatrasinh Atalia, and for the purposes of this point, I assume that the publication of the contents of the said statement does amount to a corrupt practice, the principles laid down by all the High Courts require that this fact of the direct or implied consent of the respondent No. 1, a successful candidate, must be proved beyond reasonable doubt. In this respect, my attention was drawn to one other statement of Natvarsinh Solanki Ex. 139. He has stated that the main work that he attended to was for carrying out a programme on behalf of the Swatantra Paksh, as he was the organising Secretary, and for that purpose, he prepared the propaganda literature and he has further stated that he used to send his literature to the candidate of the Swatantra Paksh and to the members of the election campaign committee. From this, it has been argued that it is not possible to believe the respondent No. 1, when he says that he had not seen this Exh. 83. But I do not think that this statement of Solanki Ex. 139 goes to refute the statement of respondent No. 1. What Solanki Ex. 139 had said that is that *Whatever literature be prepared* was sent to the candidates. He has definitely stated in his evidence that this statement was not prepared by him. There is yet one more significant statement of Solanki Exh. 139, which clearly goes to show that even it is assumed that this Ex. 83 was prepared by Solanki Ex. 139, he has stated that he never used to take the consent of any one before preparing this propaganda literature. In order to specify further as to which literature he had prepared for such propaganda, he has stated that Annexures B-2, B-4, B-5, B-6, C and F were prepared by him. The other leaflets of statements were not prepared by him. From the above discussion, it is clear that the petitioner has not succeeded in establishing as required by law that there was either direct or implied consent or knowledge of respondent No. 1 about the contents of Exh. 83 to be published either by Chhatrasinh Atalia or the Swatantra Paksh.

52. That brings me to the constitution of Exh. 156. Strictly speaking, no question about any consent of respondent No. 1, implied or express, in the statements made by the speakers in the convention held as far back as 10th of April 1961 arises. Respondent No. 1 himself has stated that he had never attended this convention. Whether these speeches would amount in law to corrupt practice or not, is a different matter. But suffice it to say that there is nothing to show in the first place that these persons Udesinh Vadodia and Chhatrasinh Atalia were the agents in the eye of law in April 1961, by any stretch of imagination, for respondent No. 1 as a candidate for the ensuing election. As a matter of fact, it is in evidence that upto January 1962, he had all his moorings with the Congress and he decided to leave Congress and become a candidate for the Swatantra Paksh on the 4th of January 1962. There is nothing to challenge this position. The word "candidate" has been defined by section 79, clause (b) of the Act. It states:—

“‘Candidate’ means a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate.”

Therefore, it cannot be said that he was a candidate at all, nor is there any proof to show that by April 1961 he had held himself out as a prospective candidate for the Swatantra Paksh. Therefore, no question of consent by a candidate to corrupt practice arises, nor can it be said, by any stretch of imagination, that either Udesinh Vadodia or Chhatrasinh Atalia was his agent for the purposes of the election. As a matter of fact, from the arguments on behalf of the petitioner, I had gathered an impression that he relied upon this newspaper report, only for the purposes of showing that the Kshatriya Sabha was trying to create a communal-atmosphere and not as an instance of corrupt practice committed by respondent No. 1, either by himself or by his agents with his consent. But even if it be so, as I have discussed above, no consent, direct or implied, is proved and I also hold that Chhatrasinh Atalia or Udesinh Vadodia was not his agent at all.

53. Here, I may very shortly deal with the aspect as to who are proved to be the agents of respondent No. 1. As I have already observed, this question of agency is not really of any importance, while considering the grounds on which the election is sought to be declared to be void under section 100 of the said Act, and the real point of importance is the ingredient of consent. All the same, as this point has been argued at some length, I will shortly deal with it here. Regarding the contention that the Swatantra Party and the Kshatriya Sabha and its committees should be construed to be the agents of the respondent No. 1, I have already dealt with. Coming to the individuals, if we go to the petition, as it was originally filed, it was alleged in paragraph 4 that Natwarsinh Solanki (Ex. 139) and Bhagwansinh Chhasatia were the agents and active supporters of the first respondent. I have no hesitation in holding that Natwarsinh Solanki was, in the eye of law, the agent of respondent No. 1, he being the organising Secretary of the Swatantra Party and the Secretary Party and the Secretary of the Kshatriya Sabha. Bhagwansinh Chhasatia does not play any prominent part, so far as the documentary evidence goes, inasmuch as there are no statements or leaflets published by him, contents whereof are tried to be fastened on respondent No. 1, but this person is supposed to have made speeches in certain meetings of the Kshatriya Sabha. Exh. 139 Solanki has admitted the fact that the said Chhasatia was also one of the campaign committee of the Swatantra party at Anand. It is also proved that he was a leading member of the Kshatriya Sabha. Therefore, under law, he is to be considered as an agent for the respondent No. 1 and I hold it accordingly. The petitioner by an amendment in the petition for the first time brought on record Chhatrasinh Atalia and he is also alleged to be an agent of respondent No. 1. It is obvious that he has been brought on to record because of the statement Exh. 13 that he had published, to which I have referred to hereinabove. I am inclined to think that because of the language and the contents of this leaflet which, if proved, and accepted as binding on the respondent No. 1, was likely to be most damaging to his cause, Chhatrasinh Atalia and this statement have been tried to be brought in at a later stage. This I have mentioned only as a background to the question under my consideration as to whether Chhatrasinh Atalia can also be held to be an agent of respondent No. 1. It may be noted that Chhatrasinh Atalia was himself a candidate for the Swatantra Paksh and that therefore he was interested, in order to advance his own cause or improve the prospect of his election, to carry on a propaganda. There is no such clear or definite evidence to show that he had tried to advance the election prospect of the respondent No. 1 in any way. As I have already pointed out from the decisions, all the workers or members of the political party to which the candidate belongs do not necessarily become his agent. There is something more that is required to be established, to constitute him to be his agent. I, therefore, hold that Chhatrasinh Atalia could not be held to be the agent of the respondent No. 1.

54. Therefore, I find on issue No. 1, that the annexures B-2, B-3, B-5, B-6, H & I are proved to have been published and circulated with the consent or knowledge of the respondent No. 1. Annexure 'A' was published and circulated by the respondent No. 1 himself. I further hold that none of the other statements, leaflets, booklets, were published or circulated either by respondent No. 1 himself or his election agent or by any other person with the consent of the respondent No. 1 or his election agent.

55. Issue No. 2—Issue No. 2 deals with the corrupt practice as contemplated by section 123, sub-clause (2). As the pleadings stood in the petition, it was tried to be made out that by consenting or conniving at the publication of the Annexure 'D' & 'E', the respondent No. 1 had committed the corrupt practice of undue influence by creating fear in the mind of the electors. This aspect of

the case, as I have already observed, has been given up. By an amendment, the petitioner then tried to bring in undue influence of a different nature by adding the following passage:

"and associating the respondent No. 1 with high dignitaries and religious persons and/or declaring a sin to vote otherwise unduly influenced the voters."

Nothing has been proved and no arguments were advanced on this aspect of the case also. The learned Advocate, however, at the time of arguments, made out quite a different case under this issue and contended that the following statement made by Chhatrasinh Atalia in Ex. 83 amounted to undue-influence falling in the proviso (a)(i) of section 123(2), inasmuch as there was a threat of ostracism given by that statement. That impugned statement reads in Gujarati as follows:—\*

The free translation thereof in English is :

"The enemy is clever. Efforts will be made to prepare persons to throw bones in this 'Yagna' or ours. I have faith that no such monster will arise and yet if anybody turns unfaithful, we will try persuasion, but, if he does not listen, whoever he may be we will (\*.....)

The actual words in dispute are these last words (\*.....). It is contended on behalf of the petitioner that here there was a threat given that if any Kshatriya were not to act as directed by the Swatantra Pakash, he will be ostracized or excommunicated. On the other hand, it has been argued on behalf of respondent No. 1 that the words (\*.....) do not mean as suggested on behalf of the petitioner. What was intended to be conveyed by these words was that the person will be vanquished or defeated. In support of this contention, these very same words used in this statement itself in the earlier portion thereof are relied upon. There, it has been stated (\*.....) which means that by securing all the seats the congress may be defeated in Gujarat. There is a lot of strength in the arguments advanced on behalf of the respondent No. 1. I do not think that the said impugned phrase amounts to a threat of ostracism or ex-communication. It is also to be noted that this is a new case tried to be made out on behalf of the petitioner which cannot be allowed and much more so in an election petition where even an amendment would not be allowed, if thereby a new ground, on which the election is attacked, is tried to be introduced. Therefore, both on merits and under law, I find that there is no foundation for this contention of the petitioner. There is a further fact to be noted. As I have already held, this statement Exh. 83 of Chhatrasinh Atalia has not been established to have been published with the consent, express or implied, of the respondent No. 1 and also that Chhatrasinh Atalia is not the agent of respondent No. 1. Under all these circumstances, I hold issue No. 2 in the negative.

56. Issue No. 3.—The corrupt practice which is alleged and which is the subject matter of this issue, is the corrupt practice falling within the purview of section 123(3) of the Act. The said clause reads as under:—

"The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language ..... for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate".

A part of this very clause (3) refers to the use or appeal to religious symbols or national symbols but that will be for consideration under issues Nos. 4 and 5. The petitioner's case so far as it relates to the subject matter of this issue is concerned is that the respondent No. 1, who is kshatriya by community and who is one of the leaders of that community, was a candidate for the Swatantra Party, and he had appealed by issuing Annexure 'A', a statement, to the Kshatriya voters of his Constituency, who were in majority in the said Constituency, to vote for him on the ground of his being a Kshatriya and had thus committed the alleged corrupt practice. It is alleged that not only the respondent No. 1 himself had done so, but that his agents and other persons with his consent had

\*—\* Matter in Regional Language.

published statements and leaflets appealing to Kshatriya voters to vote for him on the ground of his being a Kshatriya and for this the impugned documents mainly relied upon are the annexure 'C', the statement of Natwarsinha Solanki Exh. 139 the witness for the respondent No. 1 and the statement of Chhatrasinha Atalla Exh. 83.

57. After this section was amended, two important changes, so far as it affects the instant case, have been brought about in clause (3) thereof. One is that the word 'systematic' before the word 'appeal' has been dropped and the word 'his' has been added before the word 'religion'. The effect of this change is that now it is not necessary for the petitioner to prove that the appeal complained about was 'Systematic' and it would be enough even if one such 'appel' is established but at the same time by the introduction of the word 'his', any general appeal to religion, race, caste, community or language will not be enough to bring home the charge and it is necessary for the petitioner to prove that the respondent No. 1 had made such an appeal on the ground of *his*, that is, the candidate's own religion, race, caste or community. The other thing of importance to note is that it is the appeal to *vote on the ground of religion, race, community or caste of the candidate*, is prohibited and not an *appeal to a caste, community or race* or a mere reference to religion is prohibited. I may observe here that under this issue we are concerned with the alleged appeal on the ground of caste or community and not on the ground of religion, because in this case both the candidates are Hindus and it was urged before me and it could not be said that there is anything like a separate Kshatriya religion different from the Hindu religion or the religion of respondent No. 2 who belonged to the patidar community. The religion of both is the Hindu religion. The aspect of appeal on the ground of religion will, therefore, properly be the subject matter of issue Nos. 4 and 5.

58. It is the case of the petitioner and the respondent No. 2 that the 'Kshatriya Sabha' (I will refer to it as the 'said Sabha' hereinafter), which was an association mainly formed for the benefit of and which had its activities confined to the uplift of the Kshatriyas had before the election carried on propaganda on communal grounds about a year before the elections. This body had pledged support to the Swatantra party and its candidates and had worked in co-ordination with each other. The election agent Chimanlal Dadubhai Desai Exh. 138, witness for respondent No. 1, was one of the members of the election campaign committee of the Swatantra Party and was also a member of the Kshatriya Sabha. Natwarsinha Solanki Exh. 139, who was the Secretary of the said 'Sabha' was the organising Secretary of the Swatantra Party. All this showed that there was a synchronisation of activities of the said 'Sabha' and the Swatantra Party. The said Sabha was by and large a communal or sectarian body of the Kshatriyas and this Kshatriya Sabha had carried on election propaganda on communal lines and therefore they had surcharged the atmosphere with communal feelings by the time the elections were held and therefore the three impugned documents referred to above and the contents thereof should be examined against this background to determine whether they amount to appeals on the ground of community or caste. According to them, these three documents definitely constitute appeal on the ground of community or caste.

59. In order to support this part of their case the petitioner has led oral and documentary evidence. The petitioner has produced several copies of the newspapers in which the reports of the meetings held by the said 'Sabha' has been reported. But it was contended on behalf of the respondent No. 1 that the newspaper reports appearing in various papers is no good evidence unless the reporters themselves are examined before the Court and petitioner's witness Exh. 107 the Editor of Swatantra Sarjan has not supported the petitioner and none of the reporters of the reports appearing in several issues of the said paper has been examined and, therefore, they should not be looked into. I do find that there is strength in this argument. No authority is needed to support this proposition but if any is needed, it is *Sangappa V. Shrivamurthiswamy* A.I.R. 1961 Mysore, 106, So, so far as these copies of the Swatantra Sarjan are concerned, the petitioner cannot make use of them for the purpose of these reports. These issues of the said paper however may be relied upon by the petitioner so far as the use and publication of the words "Dhruvano Taro" is concerned. The petitioner has proved the reports in two issues of the paper Gujarat Kesari, regarding the meeting at Bayad, and salun of the said Sabha dated 29th March 1961 and 12th April 1961 respectively and are Exh. 170 and 156. These paper reports do show that from the time the said Sabha decided in the meeting at Bayad on 29th March 1961 to untile its moorings from the Congress and had carried on propaganda against it. There is, however, nothing objectionable in that, by itself. But these two paper reports

and the other leaflets on the record show that several meetings of the said 'Sabha' were held to carry on the propaganda against the congress and that also proves that these meetings were of the Kshatriyas. The petitioner has examined himself and other witnesses on the point and has also cross-examined the witnesses of the respondent No. 1 on this point.

60. I do not think it necessary to enter into evidence in details or any long discussion regarding this part of the petitioner's case. I find that it is sufficiently established on record, the facts, of the close co-ordination between the two bodies, that is the Swatantra party and the said 'Sabha', the 'Sabha' being a body of the Kshatriya and its bias for that community and the fact of the said 'Sabha' having carried on a propaganda to join and support the Swatantra Party. A feeble attempt was made on behalf of the respondent No. 1 that the Kshatriya Sabha was not a communal body and its activities were not confined to the uplift of the Kshatriyas only. But the show was given up by the respondent No. 1's own witness Solanki Ex. 139, who categorically admitted that it is true that the Kshatriya Sabha had all its activities directed for end in the interest of the Kshatriyas. It is true that the respondent No. 1 has proved that the constitution of the said 'Sabha' was changed some time before the election to enable any Indian Citizen to become a member thereof, who held views which coincided with the aims and objects of that body and that there were a few non-kshatriya members, including the election agent of the respondent No. 1 Chimanlal Dadubhai Desai Ex. 138, but to my mind the essential character and the fabric of this body was communal and all its activities continued as mentioned and admitted by its own Secretary Natwarsinh Solanki Exh. 139, to be for the benefit of the Kshatriyas. Another attempt that was made on behalf of the respondent No. 1 was to urge that there is nothing like a Kshatriya community. It is a nebulous term which includes many communities like the Rajputs, Kolis, Baraiyas, Patanwadlos, Thakors, Ehils, Rabarics etc. I see no merit in this contention also. Hindu law has always recognised the four 'Varnas' or Caste, *vide* Hindu law by Sir, Dinshah Mulla, P. J. 12th edition. Even if Kshatriya is not a community, it is definitely a caste and that makes no difference to the result, as section 123(3) prohibits appeal on the ground of caste also. At best, the various classes of groups mentioned above, that is Rajputs, Rajputs, Baraiyas, and others are sub-castes or sub-divisions of the Kshatriya community. Therefore, I do not accept both these contentions raised by the respondent No. 1. There is ample evidence oral and documentary to show and it is an admitted fact that the Sabha and Swatantra party worked hand in hand and that meetings and conventions were held by the said 'Sabha' of the 'Kshatriyas' in respect of the coming event, the elections to be held in 1962. I have, therefore, no hesitation in accepting this part of the petitioner's case. But, at the same time, it is to be observed that there is no prohibition against any non-political body of any community or caste to carry on a propaganda to prepare its caste or community to support any political party and its candidates, for the election or even to join hands with such political party in carrying on its propaganda, nor is there a prohibition to appeal to a caste or community to vote for any particular candidate so long as it does not amount to an appeal to vote for a particular candidate on the ground of his being of a particular caste or community.

61. On this point, the respondent No. 1's case, general by speaking, apart from the two contentions already dealt with by me above, is that the contents of neither of the three documents, that is, annexure 'A', Annexure 'C' or Ex. 83, amount to any appeal on the ground of caste or community. Of course, regarding the latter two, he has also assailed them on the basis that even if they do amount to such an appeal, they are not his acts nor the acts of any other persons, with his consent, and therefore cannot affect his election. This latter question I have already dealt with and decided under issues Nos. 1 and 2. But apart from that, on the merits of the contentions regarding their contents, the question falls within the scope of this issue; and though I have held that these two latter documents Annexure 'C' and Ex. 83 could not be said to have been published with the consent, express or implied, of respondent No. 1 and therefore cannot afford a ground under section 100 of the Act to declare the election of respondent No. 1 to be void. I deem it expedient also to make a finding on the merits of the contents of these two documents also and will do so at its proper place.

62. With this back ground of facts and circumstances, I now take up for consideration the contents of the most important document on the record Annexure 'A' on the question as to whether it does or does not amount to an appeal to vote on the ground of community or caste.

63. The admitted facts are that the said statement was prepared and published by the respondent No. 1 himself and thousands of copies were not only distributed but the contents thereof was explained and referred to by him in several meetings at different places during his election tours. So, if, the contents of this statement are held without any reasonable doubt to be an appeal to vote for him on the ground that he is Kshatriya then that fact alone would prove to the hilt all the ingredients of the corrupt practice under section 123 (3) being an appeal to vote on the ground of caste or community and that fact by itself would be sufficient to hold the election of respondent No. 1 to be void under section 100 of the said Act.

64. The impugned portion of Annexure 'A' is the portion that follows the caption "Last good-bye to Congress". Both sides have interpreted this portion to support their respective cases and have made their submissions at great length which I shall now discuss. For the sake of convenience for reference, I have numbered the paragraphs of the said 'Annexure A' in red ink.

65. On behalf of the petitioner and the respondent No. 2, it was urged that under law even a part of the statement can amount to the appeal on the ground of religion, caste or community, and clause (3) of section 123 should not be interpreted in a narrow way to mean that the whole appeal would be only on the ground of religion, caste or community, and the appeal would not be hit by it if it contained other matters also. Reliance was placed on the case of *Nazmul Haque V. Amjad Ali* 18 E.L.R. 253 at 268 and 271 (Election Tribunal Gauhati), where it is decided that section 123(3) of the Representation of the people Act 1951 should be construed according to the natural meaning of the words used in sub-section. The view that the sub-section should be interpreted in a narrow sense as if the words used were 'only on the grounds of caste' race, community, or religion is not correct. This ruling was reversed in appeal by the Assam High Court *vide* the case of *Amjad Ali V. Nazmul Haque* 21 E.L.R. 345 (Assam High Court), but the point above referred to was not touched by the Appellate Court nor was it confirmed. But I am in agreement with the argument on behalf of the petitioner to the extent that it is not the law that merely because the statement refers to matters other than the prohibited appeal also, it will not be hit by clause (2) of section 123. In spite of such other matters being there if the statement amounts without any reasonable doubt to the prohibited appeal, it would be hit by clause (3) of section 123. The learned Counsel for the respondent No. 1, however, urged that before any decision can be reached on the point as to whether that particular part impugned amounts to an appeal on the ground of religion, caste or community, the statement should be read as a whole. He also stressed that mere reference to or appeal to a caste or community is not barred under the said provision of law and the appeal to be hit by it must be found to be *on the ground of caste or community*. Reliance was placed by him on the case of *Chayur Ali Khan V. Keshav Gupta* 16 E.L.R. 154 (Allahabad High Court). The ratio decidendi of the said ruling is the same and I find myself also in agreement with these principles. The ruling in *Sudhir Hendr V. Shripat Dange* A.I.R. 1960 Bombay 249 17 E.L.R. 373 was relied upon by the learned Advocates for the petitioner and respondent No.2 for the observations made by Their Lordships to the effect that in ascertaining the true nature of the statement made, the Court has to take into consideration all surrounding circumstances including the occasion when it was published or made, the person against whom it was made, the person making it or publishing it, the audience or readers to whom it is addressed. This ruling dealt with the case falling under clause (4) of section 123, but I agree that in general effect these remarks may apply to a case under clause (3) of section 123 also. It is, however, to be noted that this very ruling also decided that adverse criticism, however severe, however undignified or ill-mannered, however regrettable it might be in the interest of the purity and decency of public life, in relation to the political views, position, reputation or action of a candidate, would not bring it within the mischief of the statute. It is only when the person beneath the politician is sought to be attacked that the mischief is done. This would support the view that if the statement amounts to a mere criticism of the policies of a political party regarding religious and communal matters, it would not come within the mischief of clause (3) of section 123. There are other rulings which directly deal with this point but I prefer to refer to them later.

66. With this background, I will now deal with the impugned portion of Annexure 'A' and the contentions urged on behalf of the petitioner and the respondent No.2 in that behalf. It is urged that the portion of the statement prior to the caption "my last good-bye to the congress" is innocuous as it only

gives a sort of his own autobiography and the sad story of his experience and connection with the Congress and a criticism of the alleged misdeeds of the Congress. This is not objected to, but it is argued on behalf of the petitioner and respondent No.2 that this cannot be said about the rest of the portion (paras 11 to 19 indicated by numbers in red ink). In para 11, he begins his campaign and says that he has left Congress to side with the public and those who are truthful are in the right. Then he emphasises a quality of the Kshatriyas when he says "A true Kshatriya will not be on the side of injustice. Believing in this I left the congress." It is urged, by this the respondent No.1 not only tries to extol the Kshatriyas but also emphasises that he is a true Kshatriya. In para 12, respondent No. 1 draws attention to another quality of the Kshatriyas of being fearless when he says: "I tell all, that it may be others who may be afraid, not the Kshatriyas". By this again not only he praises the Kshatriyas of being fearless but also by an innuendo emphasises that he also is not afraid, being a true Kshatriya himself. In para 13 he says: "And I am not ashamed of the fact that I am a Kshatriya. I do say with pride that Yes I am a Kshatriya, am the descendent of the courageous and have brave Kshatriya like Rama and Krishna, am the descendent of great religious entities like Budha and Mahavir and am an heir of great personages of their age with the lustre of the Kshatriya ruling class (\*.....) like Gandhiji and Sardar. One who follows the (\*.....)" "duties and principles" of the Kshatriyas, is a Kshatriya and that way any one can be a Kshatriya. Is is a sin or a stigma in this country to be a Kshatriya? No, we are Kshatriyas and have been the protectors of the people. We alone know how to win a kingdom, a throne, and also how to give them up. The whole history of Bharat, that is India, bears witness to this fact." It is argued that in the first part of this para, he extols himself and tries to emphasise his descent from great Kshatriyas and religious entities of the past age and also claims to be the heir of the great personages of the present age. By this he wanted to emphasise that he was a Kshatriya of the highest order. It is argued this para cannot be construed to mean that he was only praising the qualities of the Kshatriyas.

67. Para. 14 of the Annexure 'A' is as follows:

"If I am a Kshatriya and Kshatriya are my brethren, then it is natural that I will get their support. Lord Krishna lifted mount 'Govardhan' for the protection of the people but every shephred had, all the same, given support with the stick. Similarly your support will also be required. If such support is received then there is no doubt that the difficulty will disappear?

On behalf of the petitioner and respondent No. 2, this para. has been attacked as the most mischievous part of the statement. It is urged that the language matters little, the substance has to be seen and it is nothing but a direct appeal to the Kshatriyas to vote for him as he was a Kshatriya, and it become more obvious and clear when the last para. is taken into consideration, wherein he makes in clear terms on appeal to give their votes. Read in that conjunction the word 'Teko' or support in para. 14 means, he asks support by their votes and nothing else. It is argued that this para. read with the last para. by itself is sufficient to declare the election of respondent No. 1 to be void.

68. Para. 15 was not commented upon and it was not urged that it comes within the mischief of clause (3) of section 123. So, I do not quote it here. Para. 16 has been relied upon to attack the election. The heading of that para. is: "Kingdom that we have given up; do not want to take back". The para. reads as under

"who says we want to regain the kingdoms and the thrones? Shri Nehru is dally worrying about it, but I assure him that to us Kshatriyas who have once given over their kingdom and thrones, the very idea of regaining them would be obnoxious. But we will not tolerate if undesirable persons claim up to be the masters of those thrones, try to occupy them, we have never submitted nor shall we ever submit to injustice. This is our pledge and that is our vow, and the same is our support."

It was urged that this was a subtle way of appealing to the Kshatriyas by referring to the lost powers of the community and extorting them to regain it by the democratic way of returning them to power by voting for them and asking them

(\*.....) Matter in regional language.

successful in the election. This it is contended is clearly within the mischief of the provision of law.

69. Paras. 17 and 18 were not impugned before me on behalf of the petitioner or respondent No. 2. But the last para. 19 has been relied upon, the heading and the para. reads as under:—

“Last Request”.

We have no power, no riches, what we have, is only the support of the people and their confidence but that is the most valuable wealth. If that much you give, then the success is ensured. Opportunity like this does not recur, so I tell you, the last time, that do give your votes, and also get the votes of others too for us. If not the flower, even the petal thereof may be sent to us with devotion. And treating this to be your own work attain victory for yourself.”

This para read with the paras referred to above are alleged by the petitioner to clarify ask the voters to vote for the respondent No. 1 on the ground of his being a Kshatriya. My attention was also drawn to the fact that at the bottom of this Annexure, there is the following statement in brackets underneath the signature of the respondent No. 1.

“Shri Narendrasinhaji Mahida, candidate for the Swatantra party for the House of the People at Delhi for the Anand Constituency.”

It is contended this clearly drew the attention of the voters to the fact that he was himself a candidate and that he had been asking for votes by this statement on the ground of his being a Kshatriya.

70. It was, therefore, urged that the above discussed parts of the Annexure ‘A’ were clearly hit by the provisions of clause (3) of section 123 and apart from any other fact the election should be set aside on this ground alone.

71. On the other hand, it is urged on behalf of the respondent No. 1 that the contents of Annexure ‘A’ cannot be and should not be held to be hit by clause (3) of section 123, because it is not an appeal to the Kshatriyas to vote for him as he was a Kshatriya. According to him, it is a statement he had issued to explain not only the reasons why he had to leave congress but also why he decided to oppose it by joining the new party that had come into existence, that is, the Swatantra party. That the reference to the Kshatriyas and he is being Kshatriya is an incidental reference and when the Annexure ‘A’ is read as a whole, it cannot be said that it is an appeal to vote for him on the ground of caste or community. He further asserted that even the request to vote is not to vote for him alone and that, the request is to vote for Swatantra Party candidates, including his contentions and also looking to the law, I have already referred to with learned Counsel that even the construction put on the various paras was not correct and the alleged offending portions should not be interpreted or held to have the effect alleged, separate from the context of the whole statement. These being his contentions and also looking to the law, I have already referred to with which I am in agreement, that when any statement is attacked on the ground of it amounting to a corrupt practice under section 123 of the said Act, it is necessary to take the statement as a whole to determine whether the gravamen of the charge is established or not, Annexure ‘A’ will have to be examined as a whole to determine the charge.

72. The learned Counsel had dealt with the statement “Annexure ‘A’ para by para to substantiate his client’s say, from the beginning till the end. At the top of the main heading it is printed. “I have left Congress to make the voice of the people heard”. Then in bolder print the main heading reads. “The statement of Shri Narendrasinhaji Mahida, the candidate of the Swatantra party for the House of the People”. It was urged by his learned Counsel that the very heading shows that the emphasis was on two aspects and that he wanted to explain his conduct of leaving the Congress after a number of years and that he is now a candidate for the new political party the ‘Swatantra party’. The heading, therefore, clearly emphasises, it is urged the fact that the intention and object of the respondent No. 1 in publishing the statement was to justify his action of leaving the Congress and if at all, to campaign for votes as a candidate of the ‘Swatantra party’ and not as a Kshatriya. It is in evidence that this statement was published and circulated in the last week of January 1932 and that till 4th January the respondent No. 1 was in the Congress fold, he took the decision on that day and



declared in the meeting of the Kshatriya Sabha held on 4-1-1962 at Nadiad about severing his connection with 'the congress' and that he was accepting the candidature of the 'Swatantra party'.

73. The first para of the statement is as follows:—

"At present I am moving from village to village, am speaking in meeting, am contracting associations and am explaining to the people. In Kaira district, I have moved round orien and similarly have gone to the extreme North of Gujarat in Kutch, have moved round in Saurashtra, and have also gone to the Surat district in the south. And yet I find that the view point that I have been able to explain to thousands of persons at several places by meeting them, should also reach other millions of persons. I cannot go to every nook and corner because I have neither time nor facilities. Therefore, this statement is sent to you; read it and let others read also. If it is necessary to explain it to anyone, you yourself do so, because you—every one of the public are my friends. I have sought friendship and friendly tie with you, so I entrust this work to each of you. I believe that it is your confidence that is my strength."

It is urged referring to this para that it is obvious from this that the statement was intended for the voters of the whole of Gujarat and not to any particular community or caste or any particular part of the constituency and that the respondent No. 1 sought help and support from the people of Gujarat without any reference to caste, creed or locality.

74. The second para starts with the heading "my mental turmoil". I do not think it necessary to reproduce the whole para here. In this para, it was pointed out that the respondent No. 1 gives in short his activities since 1945-46 and emphasises the fact that he has contact with the public since then, that he had been to England many years before Independence, then he refers to the fact of his business intuition and also his share in pioneering the air services in many parts of this country. Then refers to the fact of independence and the integration of the States and avers that he too went with the times and the changes that happened thereafter. Then introduces the fact of his contact and work in Congress and says that he came in contact with leaders like Ravishanker Maharaj, Shri Kher, Shri Morariji and other Congress workers big and small and followed the tenets of the Congress and did all to adverse its reputation and strength for seventeen years.

75. In paras 3 and 4 of the said statement, respondent No. 1 express his dissatisfaction with Congress and the workers in Congress and says that not only he has severed his connection with it with great sadness but is now out to challenge it and oppose it. He expresses a sort of satisfaction all the same that he is not alone in this situation but there are numerous like him, including Shri Rajagopalachari, a man of great confidence of Mahatma Gandhi, and Bhai Kaka the right-man of the late Sardar, who also are experiencing such mental turmoil. It is urged, by this the respondent No. 1 draw the attention towards the leaders of the Swatantra party and the fact that he was in good company in the Swatantra party.

76. Paras 5 and 6 of the said statement are headed by the caption "The virtuousness of the Congress has gone down". These paras contain the criticism of the Congress, its acts of commission and omission and the power lust. It is alleged that the interest of the public is not looked after and only self-interest is protected and advanced at the cost of the public interest. Paras 7, 8, 9 and 10 criticise the policies of the Congress Government and alleges that unnecessary huge and wasteful expenses are made without compunction. That there is a tendency to acquire illicit gains, unnecessary new taxes are levied on the public and licensing and control system is in full swing which encourage black money and the public suffers; that unnecessary difficulties have been created in businesses which encourage and necessitate dishonesty and now they are going to ruin the agriculturist by adopting and enforcing co-operative farming. In para 10 he particularly criticises the policy of controlled economy and the huge debts incurred by Congress Government in foreign lands and complains that by all these acts of the Government the people's will and morale have been brought down. It was urged that by these paras the respondent No. 1 emphasised the points on which the Swatantra party differed from the Congress and the Government run by that party and to this there can be no objection in law.

77. Then comes the part of the statement objected to by the petitioner and respondent No. 2. Those paras that have already stated in full while discussing the arguments on behalf of the petitioner and respondent No. 2, I will not reproduce them here again, but will state only the case and interpretation put on behalf of respondent No. 1.

78. Regarding the heading "last good-bye to the Congress" it is urged that this heading shows, what he wants to emphasise in the paras that follow and that therefore the contents of those paras must be read in that context and in the context of the portion that precedes the heading. It is urged by the learned Counsel for the respondent No. 1 that in para 11 the word "Kshatriya" occurs for the first time and it is mentioned in reference to and in context with and to emphasise the aspect of the injustice being done by Congress Government to the people and that he could not therefore remain there and left it to be on the side of justice. The respondent No. 1, by advancing this argument, it was urged, was trying to justify and give one of the reasons as to why he left the Congress, as he wanted to be on the side of justice and then mentions incidentally that as a Kshatriya he could not go otherwise. So, here there is no appeal or exhortation to vote or do anything to the Kshatriyas.

79. Regarding para 12 of the Annexure 'A', it is urged that in this para he emphasises the point that once he has left the Congress he does not want to go back to it. In short, he wanted to assure the public thereby that he was not a person to blow hot and cold or play hide and seek with the public regarding his political career. Then he states that now he wants to awaken the public opinion and make it heard for there is such strength in the public opinion and the votes of the public that it can even make Congress to listen to them. Then once again he makes a reference to his being a Kshatriya, when he says "others may be afraid but not a Kshatriya". He thereby merely wanted to convey that, though the Congress is a powerful body and he is now opposing it and working against it, he was not afraid and thereto emphasise it, his pride of being a Kshatriya makes him say that he is Kshatriya and is not therefore afraid. Once again, it is urged it is a reference to himself and it contains no exhortation to the Kshatriyas to vote for him and it is mentioned only in the context as shown above.

80. Para 13 of the Annexure 'A' makes a reference to himself and his descent and the latter portion refers to the Kshatriyas generally. It is urged that in this para an attempt has been made to reply to the criticism advanced against him as a Kshatriya and the Kshatriyas as a class and in doing so he has extolled his ownself and the Kshatriyas in general. There seems to be justification for this argument as we find that the other political party was publishing disparaging literature and criticism against the Kshatriyas and respondent No. 1. One such instance at least is referred to in evidence, where the respondent No. 1 was depicted as the rider on a donkey, the donkey being depicted as the Kshatriya Samraj. Any way, the tone and the language does show that the idea behind it was by way of vindication of himself and the Kshatriyas against criticism. It is all the more possibly so, because the 'Kshatriya Sabha' had already publicly declared their support for the 'Swatantra Party' leaving the Congress to which they had in the past two elections given their concentrated support. No doubt in this para there is a direct reference to himself and the Kshatriyas, but I agree with the learned Counsel for the respondent No. 1 that there is no exhortation to the Kshatriyas or to any others to vote for him because he was a Kshatriya. This para only appears to be a vindication of his act of leaving the Congress, as that is his main theme. He was a prominent Kshatriya, was a leading member of the Kshatriya Sabha, and he had for 17 years appealed for support to the Congress. Leaflets Ex. 53, dated 19th August 1951, Ex. 55, dated 5th October 1958, Ex. 63, Ex. 65, Ex. 68, Ex. 69, Ex. 73 show that respondent No. 1 had supported the Congress and had tried to get the support for Congress of the Kshatriyas in those years for the previous two elections. That he had done so sometimes in opposition to the wishes of some of the Kshatriyas is also obvious from those leaflets. It is no wonder, whereof, that respondent No. 1 having appealed for 17 years to the Kshatriyas to support the Congress, when he drifted away from that party and wanted to join another political party and before he could seek their support for that party, he would be hard pressed to explain his position and in doing so he has incidentally emphasised the fact in this para of he himself being a good Kshatriya and the fact that it was no sin to be Kshatriya who had all the qualities and achievements at their back as mentioned in the said para, and tries to meet insinuations and criticism of the Kshatriyas evoked by the proposed drift from Congress to the other political party. There is yet another fact to be remembered that this statement as a whole was definitely addressed to and meant

for all and not Kshatriyas alone. He and the Kshatriyas being criticised for changing sides, he had to emphasise the qualities of the Kshatriyas and himself in order to win the confidence of the voters other than the Kshatriyas. In this para, there is no exhortation at all for anything.

81. The next comes para 14 which has been the main plank of the case of the petitioner and the respondent No. 2. It is urged on behalf of the respondent No. 1 that in this para by the first line, "If I am a Kshatriya and Kshatriyas are my brethren, then it is natural that 'I will get their support'", the respondent No. 1 only expresses his relief and confidence. It is only an observation. He does not ask the Kshatriyas, "you give your votes to me because I am a Kshatriyas". In support of it, the learned Counsel also pointedly drew my attention to the word (\*.....) meaning 'their'. Regarding the reference to the support by the sticks by the shepherds, it was urged that by that the respondent No. 1 only sought support for the Swatantra party and its candidates and not for himself. Referring to the word 'difficulties' (*Sankat*), it was urged that it had a reference to the hardships he had referred to in the preceding paras where he criticised the policy of the Government regarding controls, high taxes, black market, disadvantages of co-operative farming, disregard to public interest etc. and not to any difficulties of the Kshatriyas in particular. I find that there is lot of strength in this argument and the construction put on the para by the learned Counsel for the respondent No. 1. If we keep in mind the whole statement, the main heading and the fact that there is specific mention to the whole Constituency and to all the voters in the Annexure 'A' and if in that context this para is read, to my mind, the stand of the respondent No. 1 receives good support. After he had referred to the fact that he had left the Congress, he refers to the Kshatriyas and their good qualities and expresses his faith in their support and then by the second sentence he exhorts the others to the effect, "I am quite hopeful about the support of the Kshatriyas but that will not be sufficient. I will need the support of all the shepherds meaning support of all those, other than the Kshatriyas also." So, even if the para is construed to amount to an appeal to voters, I think the appeal is to voters other than the Kshatriyas, on the ground that he had left Congress for reasons explained and had joined the Swatantra party which had the leadership of a highly respected person like Rajaji and also Bhai Kaku, the right-hand man of the late Sardar, of which he was a candidate. Looked at from this point of view and the construction placed on behalf of the respondent No. 1, I think it cannot be held that this para contains an appeal beyond a reasonable doubt to the Kshatriyas to vote for him as he is a Kshatriya. It is argued by the learned Advocates of the petitioner and the respondent No. 2 that this para read with the last para makes it clear that he was asking for votes and not the support to the Swatantra party, but even if be so, as I have discussed above and the contents of this para amount to asking for votes, it was an appeal to vote for the candidates of the Swatantra party and not for himself and in any case not on the ground that he was a Kshatriya.

82. Para 15 of the statement once again is general. He exhorts the Kshatriyas to be good Kshatriyas and to Brahmins to be good Brahmins and as such to all the four known castes, known to Hindu law, the four 'Varnas'. No comments were offered on behalf of the petitioner or the respondent No. 2. I also find that this para is not within the mischief of any provision of law. Para 16 refers to another criticism levelled against the Kshatriya rulers. He, however, tries to vindicate and says that it is far from being true. At the same time, he emphasises the point that they cannot tolerate wrong persons trying to rule over the people. Here the reference is clearly to the Congress Government and in the earlier part of the statement, he had tried to establish that the Congress Government is not a good Government. It may be that here he refers to the Kshatriyas as a caste when he says, "we will not submit to injustice". He does so because he is trying to vindicate the Kshatriya Rulers. The para at the most indicates that respondent No. 1 asked the Kshatriyas to oppose the Congress. But I find it hard to accept the very narrow and yet a very loose construction tried to be placed on this para by the petitioner as a subtle appeal to the Kshatriyas to vote for him because he was a Kshatriya.

83. Para 17 definitely refers to the general public and expresses his hopes and desires that the public may try to attain the qualities and character he has mentioned. Here the writer tries to act down a sort of ideal. So, this again shows the statement was meant for and was addressed to the public at large and not to one community. In para 18 the respondent No. 1 draws attention of his

(\*.....) Matter in regional language.

readers to the facts of the new party having been brought into existence by Shri Rajagopalachari, who had given a lead all over the country, and that Bhai Kaka had given the call to join it, in Gujarat. So, in this para, he specifically again refers to the Swatantra party and exhorts the readers to support the Swatantra party. It is argued that the words "Purvajoni Pratishtha" "the good name of the ancestors" can only refer to the Kshatriyas. I once again find it difficult to accept this narrow construction. The writer has published this statement obviously for all, in para 15 he refers to all the castes and refers to the caste system (Varnashram) known to Hindu Law, refers to Brahmins. So, it is difficult to think that he refers only to the ancestors of the Kshatriyas. Again, even if that narrow construction is accepted, it cannot be hit by clause (3) of section 123 because, here he merely if at all asked the Kshatriyas to support the Swatantra party.

84. Then I deal with the last para headed by the words "Last Appeal". There can be no dispute that in the para the respondent No. 1 has openly and directly asked his readers to give their votes and also to help getting votes of others. But the questions: "can it be therefore said that this appeal is hit by clause (3) of section 123?". By this para, a general appeal is made to give support by giving votes and securing the votes of others. These votes he has not sought for himself. He was, if the whole statement is read together, appealing for votes to support the Swatantra Party and its candidates and even if he is one of them, the votes are asked as such and not because he is a Kshatriya. Even while signing he has made it quite clear that he had signed as a candidate of the Swatantra party for the Parliamentary Constituency of Anand for the House of the People. Even the heading at the top in bold prints shows he was making the statement as a candidate of the Swatantra party. Therefore, this last para also cannot and is not within the mischief of the provision in clause (3) of section 123.

85. If the annexure 'A' is read as a whole and all its parts are read in context with each other, the interpretation placed and the arguments urged on behalf of the respondent No. 1 have to be accepted as being in consonance with the principles laid down by the rulings referred to above and some others which I will refer to hereinafter. The central and main topic or theme of the entire statement is the severance of the connection with the Congress and going over to the new party in opposition to the Congress, and the main emphasis is, on the one hand, the reason why he left it and the criticism of the acts and policy of the Congress and the Government run by that party and, on the other, appealing to the public including the Kshatriyas to support the Swatantra party and all its candidates and the reasons in general why they should do so. Even if we look to the various headings under which the several paras discussed above have been arranged, the same picture emanates. The introductory para states the reason why he has published this statement and the reasons given is that he wants his message to reach millions of other persons of the public as he cannot meet all and personally give it or explain it to them and then the message follows. The first sub-head he gives is "my mental turmoil" and under it he puts three paras and explains why and how he feels that way and therein he gives generally his contact with the Congress and why he had felt like leaving it. The next heading is "The virtuousness of the Congress has gone down". Under this two paras are placed wherein he tries to justify the purport of the heading. The next heading is "Galan Tunpo" which means "stranglehold round the neck" or "strangulation of the neck". Under this heading, he has placed four paragraphs in which the policy of the Government run by the opposite political party, that is Congress, is criticised. Then five of the impugned paragraphs of the statement are put under the heading "Last good-bye to Congress". In the paras under this heading, the reference to the Kshatriyas is first made. He therein, as discussed, expresses his determination not to rejoin congress, and there of course as if to give weight to the assurance being a Kshatriya, relies on the virtues of a Kshatriya i.e. of being always on the side of justice and of fearlessness to oppose a powerful opponent. Then tries to vindicate himself as a Kshatriya and the Kshatriyas in general by first extolling their virtues and then referring to the criticism levelled against them. This again becomes more clear when para 16 is read with it. As he referred to the Kshatriyas, he merely observes that their votes he will get and then exhorts others also to vote to secure success. The next heading is "Kingdom we have given up do not want to regain." Under this, three paras are placed, where he again vindicates the Kshatriya rulers against criticism and then makes a general appeal and expresses a desire for an ideal and then states how it could be achieved. Under the last heading "Last request," he asked for vote on the basis

made out in the whole of the statement as a candidate of the Swatantra party. So, the structure and fabric of this statement annexure 'A' are not of an appeal to the Kshatriyas or to others to vote for the writer as he is a Kshatriya but at the worst of an appeal to vote for the candidate of the Swatantra party. The Kshatriyas are of course referred to, but it is to be noted that they have been referred to when he is trying to meet the criticism or aspersions cast on them by the other political party. But even if it is otherwise, even then there can be no bar to appeal to the members of a caste to support his candidature as the candidate of the new political party, that is the Swatantra party.

86. On behalf of the petitioner, reliance was placed on the ruling of *Rustom Satin v. Dr. Sampooranand* 20 E.L.R. 221 (Allahabad High Court) to urge that the statement in the instant case does amount to an appeal prohibited by clause (3) of section 123. In that case, a statement was published that there was an alliance between the Communist and the Muslim League to make a Muslim the Chief Minister of the State and that if the Hindus did not vote for the respondent (who was a Hindu), a Muslim would become the Chief Minister, it was held in that case that this did amount to an appeal to the Hindus to vote for the respondent and to refrain from voting for the appellant (the communist candidate, who was a Muslim), on the ground of religion and community. I find that the facts of that case and the instant case are very different. (i) in the said case the two rival candidates belonged to two different religions and communities; (ii) there was a direct appeal by the Hindu candidate to the Hindus not to vote for the other because if he won there will be a Muslim Chief Minister. So, there is no doubt that the said appeal was made by the Hindu candidate to the Hindu voters not to vote for the other candidate as a Muslim Chief Minister would be thrust on them, and was therefore an appeal on the ground of religion and community to vote for himself and not to vote for the other candidate. In our case, as discussed, both the candidates belonged to the same religion. There was no appeal that they should not vote for the respondent No. 2 because she was a patidar, and also as discussed above there was no appeal to vote for the respondent No. 1 because he was a Kshatriya. I find that on the contrary there are other principles decided by this very ruling which go to support the respondent No. 1's contentions. It is decided therein that an appeal by a prominent Yadava to his Yadava brethren to do their duty to the country by voting for the Congress is an appeal to a caste or community, it is not an appeal on the ground of religion, caste or community. Similarly, in our case, even if it is assumed that there is an appeal by a Kshatriya to the Kshatriyas to vote for the Swatantra party, it would not amount to be an appeal on the ground of religion, caste or community.

87. On the above discussion and reasoning, I have preferred to accept the interpretation and construction placed on Annexure 'A' on behalf of the respondent No. 1 and have observed that as such the contents of statement Annexure 'A' or any part thereof cannot be held to fall within the mischief of clause (3) of section 123. There is yet one further legal aspect to be taken into consideration and that is the principle. I have discussed in the beginning of this judgment in para 38 sub para (iii), regarding the nature of trial of election petitions where corrupt practices are alleged and the standard of proof required to hold a candidate guilty of such a charge. The decisions referred to and discussed by me in the said para of this judgment clearly go to lay down the principles that the charges of corrupt practice are quasi-criminal in character and the standard of proof required, in order to establish a charge of corrupt practice in an election petition should be the same as in a criminal case and the charge must, therefore, be established by the petitioner conclusively and beyond any reasonable doubt. In the light of these principles of law, the further question that arises for consideration is, can it be held that it is established beyond any reasonable doubt that the impugned portions relied upon by the petitioner and respondent No. 2, do definitely amount to the appeal on the ground of religion, race, caste or community for the furtherance of the prospects of the election of the respondent No. 1 and for prejudicially affecting the election of respondent No. 2. While considering this aspect of the case, I assume that it is also possible may probable to interpret the impugned portions as is urged on behalf of the petitioner. All the same, the moot question remains as to whether that can be held to be sufficient proof of the charge alleged beyond any reasonable doubt. Can it be said that the interpretation and construction placed by the respondent No. 1 on the said Annexure 'A' is not reasonably possible at all and the impugned portions can have the, meaning, only, as alleged by the petitioner and respondent No. 2. I do not think so far for the reasons I have already discussed. In *Amjad Ali v. Nazmul Haque* 21 E.L.R. 345 (Assam High Court),

Their Lordships have held that where it was not possible to find definitely whether only the policy of the congress Government in the matter of passing or enforcing legislation prejudicial to Muslims was criticised, or an appeal was made to vote or refrain from voting on the ground of religion or community under the garb of discussing such measures, the respondent cannot be held guilty of a corrupt practice under section 123(3). Evidence capable of doubtful interpretation cannot establish the charge. On the same principles, in the instant case, to my mind, taking the respondent's case at its worst, it is not possible to find definitely whether only an explanation of his severing the connection with Congress and an appeal was made to support the Swatantra party and its candidate by respondent No. 1 by the said Annexure 'A' or an appeal was made to vote or refrain from voting on the ground of his religion, caste or community to the Kshatriyas, under the garb of giving such an explanation and an appeal to support the new party, and therefore the respondent cannot be held guilty of the corrupt practice under section 123(3). In *S. Kandaswami v. S. B. Adityan* 21 E.L.R. 435 (Madras High Court), it is laid down that in election proceedings there is no room for the theory of the balance of probabilities or shifting of the burden of proof. Therefore, even if it is assumed that the interpretation put by the petitioner is probable, that is not enough to hold the charge established. In *Ahmedmitya Sherumitya v. Chippa Ibrahim Nuraji* 17 E.L.R. 218 (Bombay High Court), Chief J. Chagla has held that the onus of proving corrupt practice alleged lies on those who assert their commission and they have to be established beyond the possibility of a reasonable doubt. The evidence in their support need not necessarily be direct, but it is well-settled that circumstantial evidence and the inference deducible therefrom must be such as to lead to the only reasonable conclusion of the commission of the corrupt practices alleged. No conjecture or surmise, however attractive or even plausible, can take the place of proof and if two equally reasonable inferences or conclusions are possible, one innocent and the other guilty, the former should normally prevail. In *Lachhman Singh Gill v. Harprakash Keur* 23 E.L.R. 249 (Punjab High Court), it is decided that if two equally reasonable inferences or conclusions are possible, one innocent and the other guilty, the former should normally prevail.

88. True it is that one of the essentials of the election law is to safeguard the purity of the election process and also to see that people do not get elected by corrupt practices or wanton disregard of that law but at the same time the election of a successful candidate is not to be lightly interfered with and it can be set aside only if the charges of corrupt practice are proved beyond a reasonable doubt. It was urged that as decided by the ruling of *Sudhir Hendra v. Shripat Dange* A.I.R. 1960 Bombay 249, in order to ascertain the true nature of the statement made, the Tribunal has to take into consideration all the circumstances and in this case the circumstances of the statement having been published at election time, after the propaganda carried on by the Kshatriya Sabha and the Annexure 'A' having been distributed in the meetings of the Kshatriyas should be given full weight and if so done the only conclusion is that it was an appeal to the Kshatriyas to vote for him on the ground of his being a Kshatriya. As discussed above, I have taken all these circumstances into account and I cannot still persuade myself to accept the contention of the petitioner and the respondent No. 2 in the light of the other principles so well established and referred to above. It is, therefore, at the cost of some repetition that I have quoted those principles hereinabove to focus our attention on these extremely important aspect of election law, which the Tribunal has to keep in mind before an election of a candidate can be declared to be void.

89. Under all the circumstances, facts and law discussed above, I hold that the contents of Annexure 'A' do not amount to any appeal on the ground of religion, caste or community and, therefore, does not fall within the mischief of clause (3) of section 123.

90. That brings me to the consideration of the second document impugned as offending against section 123 (3), that is Annexure 'C', the statement of Natwar-sinha Solanki, witness Exh. 139. I have already held that this statement is not proved to have been published with the consent, express or implied, of the respondent No. 1 and, therefore, its contents cannot be fastened on the respondent No. 1 if they fall within the mischief of clause (3) of section 123. Without prejudice to and apart from that finding, I will examine the contention whether on merits it is proved that the contents of this Annexure 'C' falls within the purview of section 123 (3).

91. Annexure 'C' it may be noticed at the outset, does not make any reference for giving vote to respondent No. 1. The perusal of this statement leave no doubt in the readers' mind that this statement was published as a rejoinder given by this Kshatriya worker, as the heading shows, and which was evoked by some scathing criticism of the Kshatriyas and their leaders, and particularly to disparaging caricatures published by the other political party as mentioned in this very leaflet. The writer Solanki in his evidence Ex. 139 has also deposed to the same effect. There is no doubt that after referring to this criticism the writer tells his Kshatriya brethrens to give smashing reply to these obnoxious and disparaging caricatures and adverse criticisms by the Congress propaganda machinery, by supporting the Swatantra party and its candidates. So, there is only an appeal by Solanki Exh. 139 to support the Swatantra party and its candidates and not an appeal to the Kshatriyas to vote for any particular candidate of that party, on the ground that he was a Kshatriya. On the principles of law already discussed it cannot be said that the petitioner has established beyond any reasonable doubt that annexure 'C' amounts to an appeal to give votes to a particular candidate on the ground of his caste, community or religion, I, therefore, hold that Annexure 'C' is not hit by clause (3) of section 123.

92. That brings me to the consideration of Ex. 83, the statement by Chhatrasinh Atalia, under this issue, I am only examining the question whether this statement amounts to an appeal prohibited by section 123 (3) being an appeal to vote on the ground of religion, caste or community. On behalf of the petitioner, it is urged that by this statement the writer has appealed to the Kshatriyas, he has used terms like, "Jivan Maran-no prasang", a matter of life and death for the Kshatriyas and again "this may be the first and the last occasion for the Kshatriyas," thereby suggesting, extinction of the Kshatriyas, and by this he played upon the sentiments and feelings of the community or caste. The petitioner further relied upon the following portion for supporting his contention and strenuously urged that this portion leaves no manner of doubt that an appeal to vote on the ground of caste or community has been made.

"Many temptations will be given, attempts will be made to deter you by the use of money and power; but brethren's life is short, every one has to die. If you are brave, then give an opposition with courage and *when the vote (i.e. voting paper) is in your hand then while dropping it (i.e. the ballot box) close your eyes and contemplate who am I, what is the decision taken by my community (Samaj) and who is the candidate for the Swatantra Party and then drop the vote.*"

The learned Advocates for the petitioner and respondent No. 1 argued that by this the writer appealed to the Kshatriya voters to vote for the Kshatriya voters to vote for the Kshatriya candidates, and that amounts to an appeal to vote on the ground of caste and community.

93. On behalf of the respondent No. 1, his learned Counsel urged that he would concede that there was an appeal to the Kshatriyas but it cannot be said that it was an appeal to them to vote on the ground of the caste or community of the candidates. Dealing with the last argument first, it was his contention that when the writer appealed to contemplate before dropping the voting paper 'who he was', the writer wanted to suggest and wanted the voter to think of his self-respect. By the words "what is the decision taken by my community" the writer wanted the voters to keep in mind the decision taken by the Kshatriyas to support the Swatantra party. And by the words "who is the candidate of the Swatantra party", the writer wanted the Kshatriyas to vote for the candidates of the Swatantra party and not any other candidates. Even if the construction placed on behalf of the respondent No. 1 on the first of the phrases, i.e., who am I, be considered not to be a very probable construction and the interpretation thereof as made by the petitioner is preferred, this impugned portion, in my opinion, does not amount to an appeal to vote on the ground of caste or community of the candidate. I find it difficult to accept the interpretation put by the learned Advocates of the petitioner and the respondent No. 2 on the latter two impugned sentences. I find that when the statement is read as a whole when the writer asks the voter to think "what decision the community has taken" has definitely a reference to the decision taken by the Kshatriya Sabha and the community at large to support the Swatantra party. There is no reason to believe or hold that the community had taken the decision to only vote for the Kshatriyas candidates. Again, when the writer asks the voter to pause and see who is the candidate of the Swatantra party, he certainly cannot be alleged to be urging the Kshatriyas to vote for only the Kshatriyas candidate of the Swatantra party and not others. Such an interpretation is

neither warranted by any evidence, nor the tenor of the document itself. The only reasonable interpretation is, therefore, as urged by the respondent No. 1 that was an appeal to the Kshatriya voters to vote for the candidates of the Swatantra party in accordance with the decision taken by the community (Samaj). In view of this, I find that this impugned portion cannot be hit by clause (3) of section 123. As already discussed and the decisions referred to above show that an appeal to a caste or community to vote for the candidates of a particular party is not prohibited by law.

94. Regarding the phrases "it is a question of life and death" and "this occasion will be the first and the last" and the words "that Congress has decided to exterminate the Kshatriyas", it is urged on behalf of the respondent No. 1 that these are phrases of exaggerations indulged by parties in an election campaign, and they only mean that there was a crisis for the Kshatriyas and they had to stand together to preserve the prestige and either they prosper or they do not and if they do not stand together, they will suffer much. All this whichever way it is interpreted is definitely an appeal to the Kshatriyas to vote, but the important question is can it amount to vote for the candidates on the ground of his religion, community or caste. I find it does not.

95. On behalf of the petitioner and respondent No. 2, it is urged that the reference to the extermination of the community amounts to an appeal on the ground of community and religion and therefore the statement is hit by clause (3) of section 123 and relied upon *Nazmul Haque V. Amjad Ali* 18 E.L.R. 253 (Election Tribunal, Gauhati), wherein it was held that propaganda that Congress Government was anti-Muslim and that the Islam would be in danger if the Congress was voted to power, amounted to appeal on the ground of religion and was hit by section 123(3). As already mentioned, this decision was reversed by the Assam High Court in *Amjad Ali V. Nazmul Haque* 21 E.L.R. 345. Whether in spite of it the dicta laid down by the Tribunal stands or not has not been pointed out. But apart from it even in that case the High Court decided that when the propaganda is a mixed one and the impugned phrases are used while criticising the policy of Government or the opposite political party, reference to community or religion would not be hit by the said section. Even in this statement Ex. 83, we find that these phrases have been used while criticising the policy of the Congress and its Government. Besides, taking the statement as a whole those words cannot be taken literally, in the context in which they are used, they only could mean, it was a question of the prestige of the caste or community. The writer himself gives an indication to this, when in the 2nd or 3rd line after the impugned phrase "Brothers we decide to live or die together because this occasion is of the prestige of the whole community (caste)". I therefore agree with the learned counsel for the respondent No. 1 when he urges that the phrases were only used metaphorically. I need not here repeat the principles of law and the decisions I have referred to while deciding the question about Annexure 'A'. On the point of the standard of proof, proof required is that it must prove the charge beyond any reasonable doubt and if two interpretations are reasonably possible, one showing guilt and the other innocence, the latter should prevail. They all apply *mutatis mutandis* to this statement also. I therefore, find that the statement Ex. 83 read as a whole is an appeal to the Kshatriyas but not an appeal to them to vote on the ground of caste or community for the Kshatriya candidates and therefore is not hit by clause (3) of section 123.

96. I, therefore, hold issue No. 3 in the negative in all its parts.

97. I now go to consider issue No. 4 I will deal with the issue in two parts (i) regarding the allegation that the use of words "star of Dhruva" with the symbol of the Swatantra party amounted to the use of a religious symbol, and (ii) secondly whether the emblem of Somnath or the words "JAI SOMNATH" are proved to be religious symbols.

98. On the first part of the issue, the case of the petitioner is that the symbol of the Swatantra party was the star-simpliciter. The Gujarati word to indicate the star is 'Taro' but the respondent No. 1 and his agents with his consent referred to that symbol in leaflets statement etc. as 'Dhruva-no Tara' meaning the 'star of Dhruva' instead of using the word 'Taro'. The petitioner in para 16 of the petition alleges that 'DHRUVA' is a religious symbol and therefore by using this religious symbol he has committed the corrupt practice of the use as well as appeal to that religious symbol, under section 123(3). The provision of the said section so far as it relates to this point is as under:—

"The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote.....



or the use of, or appeal to religious symbols .....  
for the furtherance of the prospects of the ..... election of that  
candidate or far prejudicially affecting the election, if any candidate."

The section, therefore, makes illegal either the use of the religious symbol for the furtherance of the prospect of the election of the candidate or for prejudicially affecting the election of any candidate or the appeal to such religious symbol for the said purpose.

99. The first question that arises for consideration is whether the use of the words 'Dhruve-no-Taro' amounts to a religious symbol. If we look to the petition the allegation of this corrupt practice is made in paras 11 and 16. On reading these paras, it is not very clear whether it is the word 'Dhruva' by itself the symbol alleged to be used or whether it is the combination of the word 'Dhruva' used with the emblem of the star, that is alleged to be the religious symbol. The respondent No. 1 in his written statement Ex. 6 in para 16 deals with this contention and states that the word 'Dhruva' has no religious significance and the said word does not carry any appeal to the Kshatriyas as such or to Hindus as such. He further states that the star of Dhruva is well known for its stationary character and that the word 'Dhruva' has been used to signify the qualities of resoluteness—and steadfastness and by the use thereof the Swatantra party claimed that it was a resolute and steadfast party. When we go to the oral evidence we find that the petitioner himself has stated in his evidence Ex. 128 in examination-in-chief that he has read 'Dhruvakhian'. Amongst Hindus 'Dhruva' has an important religious significance. Bhakta Dhruva, after he left his home, had undergone extreme penance, whereupon God Vishnu having been moved by it blessed him whereby he attained immortality and found a place in the solar system. Bhakta Dhruva has a place of importance in our religion. Then as instances when this religious entity is remembered, he says that at the time of foundation ceremony of the house his name is used and after the marriage when the couple arrives at the husband's house, the couple is asked to look at the Dhruva star. In cross-examination, he has deposed that there is a star known by the name of Dhruva, he knows that star as Bhakta Dhruva, and it is in the north. When further asked about the significance or special traits of the star, he said he did not know. He also stated that he did not know whether it was stationary or not. The only other witness of the petitioner who says anything about this is Ex. 132. In examination-in-chief, he has said that Natwarlal Dave in a meeting at Mogar had said "the emblem is of 'Dhruva-natara' and all you Kshatriyas vote for respondent No. 1". In cross-examination, he said that the star of Dhruva is in the north, the special significance of this is that at the time of the marriage it is shown to a couple. He knew that it was stationary in the sky.

100. The respondent No. 1 Ex. 137 on this point has said that Gujarat Swatantra party had referred to the emblem of that party, which was a star as 'Dhruva-no-Taro'. There is a star named 'Dhruva' in the sky in the north. Then referring to Annexure 'B/2' on the last cover page on the outside, he has stated that the following words printed in Gujarati as adjectives have the following meanings:—

'Sanatan' means permanent.

'Adag' means steadfast.

'Marga Darshak' means 'guide', for example to navigation.

'Kruta Nishchayee' means resolute.

'Dharma Priya' means dutiful.

These adjectives used with the word 'Dhruva' are used for the purposes of indicating the star 'Dhruva'. That even in their speeches when they referred to it, it was used to signify the attributes of that star. In cross-examination, he has admitted that the official emblem of the Swatantra party was star simplifier. The voter would understand that the Swatantra party emblem is 'Taro' or star. He further stated that in Hindu Mythology 'Dhruva' is considered as a devotee (Bhakta). Amongst Hindus 'Dhruva' and 'Prahlad' are not given the same importance as Ram & Krishna, they are considered minor devotees. He knew that there was a star named 'Dhruva-no-Taro' in the sky but he did not know why it was called 'Dhruva-no-Taro'. Witness Ex. 138 Chimanbhai Dadubhai has deposed that the word 'Dhruva' was used as an adjective. There is a star by the name 'Dhruva'. He knew that amongst Hindus after marriage the couple was asked to have a look at the said star. The said star indicates resoluteness and fixity. In cross-examination, he has said that he had never

heard of 'Dhruvakhian' being read in the village. Regarding the word 'Krutni-shchayee' he says it is not true that the said word can be used only for human beings, it can be used for inanimate objects also like the 'Dhruva star'. He had never heard that in villages there was a belief that Bhakta Dhruva had received blessings from God Vishnu. Natwarsinha Solanki Ex. 139, who as stated above was the Secretary of the Swatantra party, says that the symbol of the party was star, but he used the word 'Dhruva' in some leaflets and statements with the intention of specifying the star and thereby to show that the Swatantra Paksh had the qualities of the star of Dhruva, those qualities are those which are given at the back of Annexure B-2, he also gives the English translation of the words as given by the petitioner. He then says he does not believe that the star of Dhruva is a religious symbol. He admits that Dhruva Bhakta is referred to in the religious scriptures of the Hindus. He says he used the word 'Dhruva' to only indicate the star. In cross, he has said that he did not know that some persons did believe Dhruva to be a devotee. Ex. 152 Natubhai Merubha, witness of respondent No. 1, has stated in cross-examination that he has read about Bhakta Dhruva and knew that he was a devotee. He did not believe that Bhakta Dhruva was a Kshatriya. He knew that Bhakta Dhruva had secured for himself a high place as a religious entity. He knew that there was a star named 'Dhruva' in the north which is stationary and wherein Bhakta Dhruva got his place.

101. So, the oral evidence does establish that in Hindu mythology, there was religious entity named 'Dhruva' who was a devotee. Over and above this, I was referred to the following well known works on the subject they deal with, on this point about there being a religious figure in Hindu mythology by that name.

(a) The Sanskrit English Dictionary by Gode and Karve. Therein the meanings of the word 'Dhruva' have been given and the petitioner relied upon the meanings at Nos. 9, 10, 11 & 15, where at Nos. 9, 10, 11 the meanings given are respectively an epithet of Brahama, of Vishnu, of Siva. At No. 15, the meaning is given of the word when used as a noun and the meaning is, name of the son of Uttanpada and grand-son of Manu. The authors have then given a story of this mythological figure which, in short, is that Uttanapada had two wives, one was the mother of Dhruva. By the other wife, he had an elder son. Dhruva's mother was disliked by his father. When Dhruva was very young when he tried to sit in the lap of his father just as his elder brother had done, he was contemptuously treated both by the king and his favourite wife. The child went sobbing to his mother, she tried to console by saying that fortune and favour were not attainable without hard exertions. The youth thereupon left the paternal roof retired to the woods and though quite a young lad performed such rigorous austerities that the child was at last raised to the position of polar star.

(b) The next authority pointed out was "Shrimad Bhagawti Bhagawt" translated into Gujarati and my attention was drawn at page 589, wherein the heading is 'Dhruva Mandal-nu-Varnan' (\*.....) and there is a reference as under:—

"In that, the great devotee of Bhagwan and son of Uttanapada Shri Dhruva is identified with possibly the star of Dhruva".

(c) The next book referred to was 'Mahabharat' translated into Gujarati, wherein at page 443, there is a passage to the effect that by constantly remembering the names of the Gods, the seven sages and of Dhruva one can get free from all difficulties and also from all sins.

(d) The other book referred to was history of 'Dharamasatra' by Kane at page 530. This book is in English. At page 530, there are following lines:—

"When she (the bride) has seen the pole star, the star Arundhati and the seven sages (the constellation of Ursa Maja), let her break her silence and say 'may my husband live and may I secure offspring'".

This is under the chapter "The Ceremonies of Marriage". But it may also be noted that on page 531, the author states:—

"In this description of the Samskara of marriage, there are three parts. There are certain rites that are preliminary, there are then a few rites that are of the essence of the Samskara, viz, Panigrahana, Homa, going round the fire and Saptapadi and there are certain rites like the seeing of the pole star etc. that are subsequent to the central rites. The essential rites are mentioned by all Sutrakaras, but as to the preceding and subsequent rites, there is a great divergence in the details."

(\*.....) Matter in regional language.

At page 535, the author refers to the said difference so far as the pointing out the pole star is concerned. We are not concerned with the details. Suffice it to say that there is a difference of opinion about this ceremony also.

(e) The other book cited was 'Shrimad Bhagwat' translated into Gujarati by one Shastri Girjashankar Mayashanker. At page 412, there is a passage under the Chapter headed by the words 'Dhruva-sthana-nu Varanan' and there again the same suggestion comes that 'Dhruva' or pole star is the residence of 'Bhakta Dhruva'.

102. These authorities coupled with the evidence prove the fact that 'Bhakta Dhruva' or 'Dhruva' as a proper noun has a religious significance in Hindu mythology. It also shows that some of the religious book suggest, that 'Dhruva' has his abode in the pole star or 'Dhruva Tara'.

103. But under this issue the question for consideration is whether any religious symbol is used. If at all anything could be said to be 'use' of a symbol, it would be the use of the picture of the star read with the word 'Dhruva' the word 'symbol' has not been defined anywhere in law and for its meaning we have to depend on the appropriate meaning given in the dictionaries, that can fit in the context, in which the word has been used in section 123 (3). Chamber's Dictionary gives the meaning "that which by custom or convention represents something else; a type; a creed, compendium of doctrine, or a typical religious rite": On this question what can be called a symbol for the purpose of section 123 (3) of the Representation of the people act 1951, there is a useful discussion in *Karan Singh V. Jamuna Singh* 15 E.L.R. 370 (Allahabad High Court) at page 374 at seq. where after referring to various dictionaries, it was found that the most appropriate meaning to be applied would be "something that stands for, represents, or denotes something else (not by exact resemblance, but by vague suggestion, or by some accidental or conventional relation, especially a material object representing or taken to represent something immaterial or abstract, as a being, idea, quality or condition, a representative or typical "figure, sign or taken.)" The question, therefore, that arises is whether the words 'Dhruva star' or the word 'Dhruva' used with the emblem of a star can necessarily be held to be a religious symbol. The dictionary on which reliance is placed "The sanskrit English Dictionary" above referred to shows that the word 'Dhruva' is used not only as a proper noun is but is also used as an adjective. The meanings of the word 'Dhruva' when used as an adjective are given as "fixed, firm, immoveable stable, permanent, constant, unchangeable. He has also given several sanskrit sentences wherein the word 'Dhruva' has been used as an adjective, such as (\*.....) where it means certain, sure, inevitable. Then the words "Dhruva-smriti" is given where it means retentive or tenacious. The same dictionary gives the meaning also when the word 'Dhruva' is used with the word 'Tara'. On page 870, the meaning is given as the polar star. Therefore, 'Dhruva Tara' or the 'star of Dhruva' does not necessarily mean or indicate the connection of the star with the mythological 'Dhruva' or the 'Dhruva Star', as is understood in mythology and the word 'Dhruva' is used even in sanskrit as an adjective with the meanings referred to above. It is a well known fact that in Geography and in Astronomy one learns and comes to know about 'Dhruva' star that is the polar star. So, the use of the word 'Dhruva Tara' or 'Dhruvano Taro' or using the word Dhruva with the emblem of a star, can also indicate the pole star known to geography and Astronomy; it cannot be said that to the public the Dhruva star or the north pole star can only mean the star known to mythology and not to Astronomy or to Geography or simply a star which is stationary in the northern sky, without having any religious significance. There is even no reliable evidence led by the petitioner to prove that the use of the words 'Dhruva no Taro' or the word 'Dhruva' with the picture of star meant only the 'Dhruva' star or 'Bhakta Dhruva' known to mythology to the electorate of that locality. According to the evidence on behalf of respondent no. 1, this word 'Dhruva' was used only as an adjective to indicate the star: and in order to bring out the attributes of the pole star, the five words were used to emphasise the points that these were also the attributes of the Swatantra Party. It was argued on behalf of the petitioner that the meaning of the last two attributes utilised by the Swatantra Paksh, particularly on Annexure B-2 at the back thereof, which is the manifesto of the Swatantra Party, could not apply to inanimate objects, and therefore it indicated the mythological figure and not the polar star. It is urged that the word 'Kruta-nishchayee' meaning resolute can only apply to an animate object and not to an inanimate object. Regarding the

(\*.....) Matter in Regional Language.

last word, it is urged that its meaning should be 'devoted to religion'. On behalf of the respondent No. 1, it is argued that its meaning is not 'devoted to religion' but it is 'devoted to duty' or its meaning is 'dutiful'. 'Dharma' does not necessarily mean religion, 'Dharma' is also widely used to indicate 'duty' and, under those circumstances, it is argued that these two words can apply even to an inanimate object like a star. On behalf of the respondent No. 1, witness Exh. 139 Natvarsinh Solanki, who was the introducer of the use of the word 'Dhruva' in Gujarat being the secretary of the Swatantra Paksh, has deposed that he had introduced it only as an adjective of the 'star' and it was used to indicate the star of 'Dhruva' and nothing more. He has also given the meanings of the five attributes mentioned in Annexure B-2 and has stated that the last two words can be used for an inanimate object. Even if it is assumed that strictly and grammatically the last two words may not apply to an inanimate object, many a times in common parlance many words are used metaphorically or loosely to apply to inanimate objects also. Merely from the use of these two last words, it cannot definitely be said that the reference was to 'Bhakta Dhruva' and not to the star. As observed above, there is no evidence on the part of the petitioner to the effect that this was understood to be so by the electorate.

104. The prohibition of the use or appeal to religious symbol is apparently based on the principle that the elections shall not be fought on religious or communal grounds. Though the constitution has given the privilege to every one to follow his religion and it guarantees that right yet as the Constitution has declared the country to be a secular state, it has been laid down by the Representation of the people Act that no candidate can canvass for himself by playing upon the religious or communal sentiments of the people and that is provided for by section 123 (3) of the said Act. Therefore, the fundamental basis of the prohibition against appeal to religion and the use of or appeal to a religious symbol is the same, that is to say, the use or appeal must be such as would excite the religious fervour or passion amongst the voters to closed their free will and vote on the basis of such religious fervour. I am of the opinion, therefore, that any sign or symbol that may have some reference to religion or mythology will not make it a religious symbol so as to fall within the ambit of the prohibition of section 123 (3). This constitute a religious symbol for the purposes of section 123(3), it must be proved that it is both religious and it is some thing which can be held to be known or acknowledged as symbol so as to arouse religious fervour or appeal in the mind of the voters concerned, because it is to be proved that the said religious symbol was used for the furtherance of the prospects of the election of the candidate in question. In our case, the burden of the attack has been that all impugned actions were directed to capture the voters of the Kshatriyas, for the purposes of furthering the election prospects of the respondent No. 1. So, the 'use' or 'appeal to' has to be correlated to that aspect of the matter also and, as observed above, there is no convincing evidence which can be said to have proved this fact. Hindu mythology is resplendent with such belief and thousands of objects, animate and inanimate, are referred to as having a religious or mythological significance, which may, therefore, be generally called a religious symbol. But certainly Legislature could not have intended to prohibit the 'use' or 'appeal' to all such references. To constitute any such 'use' or 'appeal' to a religious symbol, facts, as discussed above, should be established to declare an election of a successful candidate void. Here, a reference to the ruling of Ram Narain Prasad Yadav v. Subnath Deogam 21 E.L.R. 108 (Patna High Court) may be made with advantage. In the said ruling, a 'cock' was the 'symbol' of the party concerned and there pamphlets were published and held to have been circulated by the party organisation to which the candidate whose election was challenged belonged. One of the leaflets was as under:

"In the box of the Jharkhand party is printed the symbol of cock. Put your votes in the box with cock symbol. O: rise ye children of men.

Respected sons of men open your eyes, lend your ears, recognise me and my crow. In your services and worship. In the worship of your forest God (Buru); In stomach pain and headache.

At the time of your distress and miseries, I am with you even after giving my life. Your recover (from illness) even by applying knife at my neck. This thought gives me pleasure. In exchange of this give me chara in the shape of vote. I am victorious. Do not forget me, otherwise I tell, ye sons of men will suffer eternal miseries, crow of cock cock crowed, rise now, open your eyes, be prepared for duty. Yours only cock."

In spite of this, in that ruling it was decided that the 'cock' cannot be held to be a 'religious symbol' even when it was used with other words that might indicate that it had religious or mythological significance. Their Lordships have observed:

"After careful consideration of the evidence in this case, I am of the view that the Tribunal has correctly held that the 'Cock' is not the religious symbol of the Adibasis. No doubt some witnesses (Adibasis) on behalf of the appellant stated that they considered 'Cock' to be their religious symbol, but the facts which they have proved in respect of the part which the cock plays in the ritual of the Hos, Mundas and Oraons of the constituency in question does not justify the conclusion that the 'Cock' is a symbol of the religion which they profess. Cock by itself does not signify any particular faith of these Adibasis, although the cock forms an integral part of the religious ceremonies which they perform while worshipping some of their important deities. On behalf of the respondent some witnesses (Adibasis, were examined who stated that the cock was not their religious symbol."

In the instant case also, there is nothing proved that the 'Dhruva' star signifies any particular faith of the Kshatriyas, although at best the 'Dhruva star' may be said to form a part of the marriage ritual, inasmuch as the couple is asked to have a look at the star after marriage. Even that be so, it would not convert the 'Dhruva star' into a religious symbol within the meaning of the words as used in the context where they are in section 123(3). This decision was challenged before the Supreme court, but the Supreme Court has confirmed this finding of the Tribunal and the High court. I will have occasion to refer to these rulings again when I consider the next issue. But for the purposes of this issue, I have referred to them to show that they support the view I have taken as discussed above. I, therefore, find it difficult to accept the argument of the petitioner that the words 'Dhruva star' or the picture of the star used with the words 'Dhruva' should be held to be a 'religious symbol'.

105. But even if it is assumed for argument's sake that in one view of the matter, it can be held to be a religious symbol, the important question is "would the Tribunal be entitled or justified in declaring the election of respondent No. 1 void in this case?" As I have already discussed, these words or the 'symbol' impunged also indicate or have a reference to something other than religion or religious belief; that is to say, they also indicate the pole star known to Astronomy, Geography and to the common people. So, at worst these words or symbol are capable of two interpretations. As I have already discussed above fully, the nature of the trial in an election petition requires proof of a charge of corrupt practice beyond any reasonable doubt. Whether the words used or the word 'Dhruva' used with the emblem of star is any symbol or not if at all it is a symbol, whether it amounts to a religious symbol or not, are very important ingredients under the charge of the corrupt practice of the 'use' of or 'appeal' to a religious symbol. If the evidence or circumstances relating to this controversial point is such as would leave the Tribunal with two possibilities or inferences as to the fact whether it amounts to a religious symbol or not, then it cannot be said that the fact is proved beyond reasonable doubt. In this case, it cannot be said to have been established that the use of these words can mean only the mythological 'Dhruva' or the mythological abode of 'Bhakta Dhruva'. It cannot be concluded, therefore, that these words amount to a religious symbol only. There is an equally reasonable interpretation and possibility of the fact established that the use of these words only indicates well known pole star, which is stationary in the northern sky and which is also used as guide by seamen for navigation and as such known to astronomy, science, geography and also the common people. Under the principles decided by a long array of decisions of various courts, if there remains a reasonable doubt, as in the case of a criminal trial, the benefit should go to the person charged with the corrupt practice alleged and I think, under the facts and circumstances discussed above, this is a fit case where in any case this benefit should go to respondent No. 1. This much on the question as to whether these words at all amount to a religious symbol, but regarding the other ingredient of the charge, that is the 'use' or 'appeal' to religious symbol or to religion, I shall examine under the next issue.

106. I will now consider the question as to whether the 'use' of or 'appeal' to the words 'JAI SOMNATH' or the emblem of Somnath would amount to the 'use' of or 'appeal' to a religious symbol.

107. The case of the petitioner on the point is that the respondent No. 1 has used the words 'Jai SOMNATH' at the end of his statement Annexure 'A' to appeal to Kshatriyas on the ground of religion, as Somnath is the titular God of the Kshatriyas who hold him in great reverence. It is alleged further that this slogan 'Jai SOMNATH' has a great significance to the Kshatriyas as the old Kshatriya Kings used it as a war cry. It is further urged that in leaflets calling the meetings or conventions of the Kshatriya Sabha the leaflets bear the emblem of Somnath and also the slogan 'Jai Somnath' with the emblem part, I shall deal with hereafter. To substantiate this point, the petitioner has produced Annexure 'F' with the petition a leaflet giving information about the meetings at several places named therein. It is alleged that therefore there was the use of and appeal to the religious symbol. Over and above Annexures 'A' and 'F' the petitioner has relied upon Exs. 26 to 29 for this point.

108. As against that, the case of the respondent No. 1 is that the slogan 'Jai Somnath' was introduced by him as a phrase of greeting just as the phrases 'Jai SHRI Krishna', 'Ram Ram', 'JAI SITARAM', 'JAI SWAMINARAYAN', 'Jai Hind' are used as such. It is denied that it has any religious significance. Regarding the emblem of Somnath, he denies any having been used by him or with his consent. The emblem part I shall deal later.

109. As regards the words 'Jai Somnath' the respondent No. 1 has deposed that he and others have been using this as a term of greeting for the last 17 or 18 years. He further says that within the words 'Jai Somnath', they also used the words 'Jai Hind'. He has further said that Somnath Mahadev is not considered as the Chief God by all the Kshatriyas, some do consider so. This term was used by Dr. Rajendraprasad, Sardar Patel, Shri K. M. Munshi and others. He does not admit that the words were used as a war cry by the Kshatriyas. His witness Natversinh Solanki Ex. 139 has said that, since, the inception of the Kshatriya Sabha they have been using this phrase, as a greeting, as 'Jai Krishna', 'Jai Hind', etc., are used. He admits that before this word was adopted as a phrase of greeting, 'Jai Krishna', etc., were used as phrases of greeting. He admitted some Kshatriyas believed in Somnath as the chief God.

110. The petitioner Ex. 128 has deposed on this point to the effect that Kshatriyas believe in Somnath as chief God. They used 'Jai Somnath' as war cry. In some leaflets the picture of God Somnath is printed. In cross, he says he has never heard the words like 'Jai Swaminarayan' or 'Jai Krishna' or 'Jai Shri Krishna'. He however, said that he had heard the word 'Jai Hind' being used in common parlance and also in correspondence. Exh. 130 witness for petitioner has said that there is a temple in Saurashtra by the name of Somnath temple. The Kshatriyas believe 'Somnath' to be their family deity. They used these words as a war cry in old days, he said so from some books on history but did not remember which.

111. Exs. 45 and 46 are post cards produced by the respondent No. 1 written to him by other persons in March 1962 wherein after signing they have used the words "(\*)....)" (Na Jai Somnath). Ex. 48 is a post card written by some one to respondent No. 1 and which has got nothing to do with election and written on 12th September 1950. The signature "(\*)....)" (Nathusinh-na Jai Somnath). Ex. 47 is a printed post card in March 1959 calling a meeting. There, the same words are used after the signature. Exh. 53 is a printed leaflet in January 1952, which is an appeal by several Kshatriyas to vote for Congress and which refers to a resolution passed by the Kshatriyas Sabha on 19th August 1951 to support Congress. This leaflet bears the words 'Jai Somnath' at the head of it. The words 'Jai Hind' are also used. Where the appeal ends, there too they are used. Exs. 54 and 55 are leaflets calling meetings of the Kshatriyas Sabha in 1959 and 1958 respectively. These impugned words are used. Ex. 58 is a printed invitation to attend a meeting of the Kshatriyas Sabha, in January 1951, these words have been used at the head of it. All these documents clearly show on the face of them that the Kshatriyas and the Kshatriya Sabha have been using these words as a term of 'greeting' just as any other phrase or term like 'Jai Hind' for years past. There is no evidence to prove to lead to the conclusion that this term has been used as a religious symbol and much less that it is only a religious symbol and not a mere term of greeting. I, therefore, hold that it is not a 'religious symbol' within the meaning of section 123(3).

112. Then I go to the allegation of the emblem of God Somnath having been used on the leaflets. One of the leaflets relied upon is Annexure 'F'. No one has

said that the symbol or emblem used depicts God Somnath. On the contrary, if we look, at some of the old leaflets used even prior to the election, Exs. 54 and 55, which are of the years 1950 and 1958 respectively, the same emblem is used. The words written in the emblem are 'Jai Hind'. So, this seems to be an emblem used by the Kshatriyas Sabha long prior to the election time and there is nothing to show that it is any religious emblem.

113. The other two leaflets relied upon for the purpose of this attack are Exs. 28 and 29. These are leaflets and are invitations to the meetings at Cambay and Thasra by the Secretaries of Nadiad Kshatriya Sabha and the Thasra Taluka Kshatriya Sabha respectively. The emblem used thereon is different from the one used on Annexure 'F', there is also evidence to show that these emblems depict God Shiva. However, there is no clear evidence that God Shiva is the same as God Somnath. But apart from that, it has to be held that it is established that these are religious symbols 'used'. I, therefore, hold that the word 'Dhruva' used with the symbol of the star does not amount to use of a religious symbol, but the use of the emblem of Somnath on Exs. 28 and 29 would amount to use of a religious symbol. But it cannot affect the election result as I find that the use was not with the consent of the respondent No. 1 or for furtherance of his election prospects.

114. Issue No. 5.—This brings me to the consideration of issue No. 5. The issue consists of two parts—first whether it is proved that the respondent No. 1 or his agent with his consent or knowledge used or appealed to any of the said religious symbols and secondly whether it was so used or appealed to for the furtherance of the candidate's prospects of the election or for prejudicially affecting the election of respondent No. 2.

115. As regards this, I will have to divide the discussion into two portions—first as regards, the use or appeal to the words 'Dhruva-no Taro' and secondly as regard the use of appeal to the words 'Jai Somnath' or the emblem of 'Somnath'.

116. So far the question of the use of the words 'Dhruva-no Taro' is concerned, they are used on Annexure B-2, the manifesto of the Swatantra party, and which is accepted by respondent No. 1 also to be his own manifesto. I have already held under issue No. 1 that Annexures B-2, B-3, B-5, B-6 should be taken to have been put into circulation with the consent or knowledge of respondent No. 1. Therefore, the fact of the use of these words by the respondent No. 1 by his agent with his consent is amply proved. So far as these leaflets are concerned, under issue No. 4, I have, however, held that these words are not proved beyond reasonable doubt to be a religious symbol and as such no corrupt practice could be held to have been proved on that finding alone. But here I shall try to assume for argument's sake that those words may be held to amount to a religious symbol. Then one further fact remains to be proved before the charge of corrupt practice could be brought home to respondent No. 1 and that fact is that such a use or appeal was for the furtherance of the prospects of election of respondent No. 1. It is very important to note that apart from the use of the impugned words, there is nothing in the manner or extent of the use by the respondent No. 1, which can justify a conclusion that the alleged corrupt practice was committed by or on behalf of the respondent No. 1. Except for one witness Exh. 132 Mahadevsing Raising, who has stated that one of the speakers at a meeting at Mogas had said "The emblem of the Swatantra party is 'Dhruvana Tara' and we all Kshatriyas should vote for respondent No. 1". There is no evidence at all as to the manner or the emphasis put on the use of those words by the respondent No. 1. This witness cannot be said to be an independent witness, he is admittedly a Congress worker and is interested in the success of the other candidate for her success. In cross examination, when asked about the star of 'Dhruva', he says that the star of 'Dhruva' is in the north and that it is a stationary star and the only significance he knows about the star is that at the time of the marriage, it is shown to the couple. It is also significant to note that this witness says that only three leaflets were distributed, in his village and they were the statements of respondent No. 1 that is Annexure 'A', the statement of Chhatrasinh Atalia that is Ex. 83 and the statement of Natversinh Solanki that Annexure 'C', and it is important to note that none of these three bears the word 'Dhruva' or 'Dhruvano Taro'. I, therefore, find that practically there is no evidence at all or circumstances shown to show that this religious symbol was used or appealed to for the furtherance of the prospects of respondent No. 1 at the election and, therefore, this important ingredient of the charge is also not proved. I need not repeat here that this ingredient of

the charge has also to be proved beyond any reasonable doubt. I am supported in this view by the ruling of *Shivram Sawant Bhonsale v. Pratap Rao Deorao*, 17 E.L.R. 37 (Bombay High Court). The facts of this case are similar to the case under consideration. In that case, the respondent was alleged to have used the symbol of 'Jai Shambho' on badges issued to the candidate's volunteers and also in some printed matter in the election campaign. There also the use of this symbol was proved, but Their Lordships came to the conclusion that apart from the mere use of these words, there was nothing in the manner or extent of the use of these words, to show that the use was made in furtherance of the prospects of the candidate's election. And in the absence of such proof, a candidate could not be held guilty of corrupt practice under section 123(3). It may be noticed that, in that case, the respondent in cross examination had actually stated that technically speaking the words were a religious motto and, in spite of that admission, Their Lordships held that that was a slander threat for holding that a religious symbol was used in furtherance of the respondent's prospects at the election. It was also proved there that the impugned words were used on badges issued to the respondent's volunteers and workers; that they were used on printed matter which was proved to have been circulated. It was also alleged there that the use of, and appeal to, the state motto of 'Jai Shambho' was made by the respondent and his workers to solicit votes for the respondent and for the furtherance of his election prospects on various occasions and in particular on the polling day at all the polling stations. The finding of the Tribunal was that those uses amounted to the use of a religious symbol and they were used for furtherance of the prospects of the election candidate. But, as stated above, Their Lordships of the Bombay High Court reversed that decision on that point for the reasons as stated. Under the circumstances, I hold that the petitioner has not proved beyond any reasonable doubt that the words *Dhruvano Taro*, even if assumed to be a religious symbol, were used or appealed to, for the furtherance of the prospects of the election of respondent No. 1 or for prejudicially affecting the election of respondent No. 2.

The ruling of *Madan Mohan v. Hari Datt* 15 E.L.R. 331, further supports the above conclusion.

117. Here, in passing I may also examine the question as to whether it is established that by making use of these words, there was an appeal to the voters to vote for respondent No. 1 on the ground of his religion. From the facts discussed above and the conclusions reached to the effect that it cannot be held proved that there was any use of or appeal to any religious symbol, because those words do not necessarily mean the mythological figure of 'Dhruva' it cannot be held that there is proof beyond any reasonable doubt that there was any appeal to vote for respondent No. 1 on the ground of religion. The petitioner however relies upon the following decisions to urge upon me that the use of these words should be held to amount to an appeal on the ground of religion. I, therefore, deal with these rulings.

(1) *Desai Basawaraj v. Desankol Hasansab* 4 E.L.R. 380 (Tribunal Dharwar). This ruling is relied upon on the ground that in that case the reference to the symbol of Congress which was a yoked pair of bullocks its reference in the following terms was held to be an appeal to religion and religious symbol:—

"Speeches that are made by the leaders of our nation, that 'India lives in the villages' are proper. More than 75 per cent. of the Indian population lives in villages. Agriculture is the main occupation of the Indians. The animal which is seen and loved by every body in the villages, is a bullock. It is looked upon dearly by our people as 'Nandi' of God Isware, Basavanna. Bullocks are the strong treasures of our agriculturists and soul of agriculture."

I do not think this ruling can have any application to the facts of the instant case. In the said case, in the article published, there was a direct reference to the bullocks as the object looked upon dearly by the people as 'Nandi' of God Isware, Basavanna. Again, the Tribunal took it as established by evidence that the electorate voted for the symbol of the Congress because their family deity was Basavanna and they voted for the symbol of Congress believing they were voting for Basavanna their God. In the present case, there is nothing to show that in any appeal in any of the leaflets or even the manifesto Ex. B-2, there was any attempt to appeal to the symbol of 'Dhruva'. There were no words used therein to the effect as were in the said case asking the voters to vote for or in the name of the devotees 'Dhruva', nor is any evidence led to show that the voters voted for the symbol of the Swatantra Party believing or taking it to be voting for that religious entity. In the above quoted ruling, it was



held that the photograph of Mahatma Gandhi is a national symbol. This conclusion in later rulings of the High Courts has not been accepted.

(2) The next ruling relied upon by the petitioner is *Sangappa v. Shivamurthiswamy* A.I.R. 1961 Mysore page 106 at pages 113-114, para 48. In the said case, the question arose whether the pamphlet containing the following statement amounted to an appeal on the ground of religion:—

“Congress Election symbol:

( )  
This is the picture of two yoked bullocks. Bullocks remind us of villages. The charm displayed by them when moving on fields, in forests and on meadows and on green pastures pleases the minds of ryots and is a feast to their eyes.

Bullocks is Shiva's Nandi-Basavanna. Just as it is the mount of God it is also the servant of the country's economic system and the foundation and the transcendent power of the farmer.”

It was held that the said paragraph 1 of the pamphlet amounts to an appeal in the name of religion or in appeal on the ground of religion. The reason given by Their Lordships is that it was represented by this appeal to the voters that the bullocks forming the Congress symbol was the mount of Shiva or have to be regarded as the same as Nandi, who is the mount of Shiva; that it amounted to an appeal to the voters that they had to cast their votes in favour of the Congress symbol, because the Congress symbol represents the mount of God.

Once again, here, there is a specific and unmistakable appeal made to the religious emblem of Nandi, that is Shiva's mount. It leaves no manner of doubt that this reference could be anything else than to the religious sentiments of the voters to vote for the symbol of the Congress, which was a pair of bullocks with yoke on, considering them to be the mount of God Shiva. As I have discussed above nowhere in the present case, any such appeal was made in the name of ‘Bhakta Dhruva’ or to the ‘Dhruva star’ as the epithet of Shiva or as depicting ‘Dhruva’ of the mythology.

(3) The other authority relied upon is *Abdul Rahiman Khan v. R. K. Biswas Roy* — is A.I.R. 1959 Orissa 188. This is equal to 19 E.L.R. 278. In the said case, the allegation was that the respondent carried on along with his supporters appeals through the use of religious symbols by saying that the Congress box carried the emblem of bullocks, which were the carriers of Lord Mahadev, and as such the electors should vote for him and that the other candidate was a Pathan, who did not honour the bullocks, and therefore, should not vote for him. In order to prove this allegation, reliance was placed upon a leaflet which contained the following statement:—

“The bullock will pounce upon your bow and arrow (that being the symbol of the Ganantantra party) and Lord Shiva is sitting on the bullock. We the raiyats tend the ‘Bahan’ (carrier) of Shiva. You better run away with your bow and arrow. We will live in prosperity if the bullocks continue to live amongst us. Therefore, do not mislead us by falsehood. The only other offending portion is the last stanza of the sixth poem marked exhibit 5(1). In exhibit 5(1), it is stated: O! My farmer brethren listen to me and do not cast your vote in the box carrying the emblem of bow and arrow. The bullock is your deity in whom you should always have faith.”

Their Lordships have also held that there is evidence that the returned candidate asked the electors to vote for the Congress on the ground that bullocks are the symbol of that party and they are ‘Bahans’ of Shiva and it would be in conformity with their religion that they should not for sake this symbol. Further, it is held to be proved that it was canvassed by the successful candidate that if the Ganatantra, whose candidate is a Pathan, is returned, he would convert the country into a Muslim country and that we would be leaving our religion. That the successful candidate further canvassed that his party had the symbol of bullocks which are the Gods of Hindus and, therefore, his party should be supported. On these facts, in the said case, it was decided that the successful candidate had appealed to the voters on the ground of religion and to religious symbol. I think the facts hardly require any comments to show that there is no such evidence in our case and, therefore, this case cannot have any application to the present case.

(4) The last case relied upon is *Shubnath v. Ram Narain* A.I.R. 1960 supreme court 148. This is the appeal decided by the Supreme court over the decision reported in 21 E.I.R. 108 (Patna High Court), to which I have made a partial reference under issue No. 4. In this case, the allegation was that a leaflet addressed to the electorate mainly consisting of Adibasis issued by the candidate's party consisting of Adibasis in the name of a 'cock', which was the party's symbol in the election, amounted to an appeal on the ground of religion and religious symbol or not. The facts were that it was alleged that respondent No. 1 who was an Adibasi, belonged to the 'Ho' community classified as a scheduled tribe. He had contested the election on behalf of the Jharkhand party, the aim and objects whereof were to secure a separate administration unit for the Adibasis inhabiting in certain states. The said candidate and the Jharkhand party to which he belonged adopted 'cock' as election symbol. The other side had alleged that this 'cock' was considered by Adibasis as a symbol representing their object of worship, namely, their presiding deities of villages and forests, including the deities of prosperity, adversities and their controlling diseases. One of the recognised modes of worship of these deities or some of them is that the cocks are sacrificed before their deities to get happiness and to get rid of miseries. That the cock is sacrificed after some ceremonies. They have also got some beliefs in respect of the cock, if, before they sacrifice, he were not to peck at the rice which was offered to him. It was, therefore, asserted that for the Adibasis, the cock has special appeal to their religious sentiments and that the respondent No. 1, in order to arouse hatred against the petitioner, who was a non Adibasi, and in order to get the support of voters of the aforesaid constituency, the majority of whom belonged to the 'Ho' and other Adibasi communities, printed and got published, leaflets and circulated them widely.

The leaflets which were relied upon for these allegations were two—one of them was which I have already quoted while I discussed the matter under issue No. 4, while the other one was as under:—

'Jai Jharkhand', 'Jai Hind'. Do not spoil your votes casting them to other than 'Sandi Sim' box (box with cock symbol). Dear brothers and sisters, you know that the creation of a Jharkhand state is not a small (easy) task. It is a very big (difficult) job. From what we have heard and seen in the past, we have experienced and learnt that so long we are unable to get the State of Jharkhand, our miseries will have no end. The brothers of Orissa, Madhya Pradesh and Bengal in collaboration with the brothers of Bihar are ready to work after creation of the Jharkhand state. Dear brothers and sisters, therefore, it is no time for us to lose heart. With the strength of the Jharkhand Party, our country is progressing towards well being and it would advance on. Brothers and sisters, it was with your help and sympathetic consideration that in the last election the Jharkhand Party's name has come in the lime light and spread throughout the country. My prayer to you is that in the ensuing election you would work with full pleasure and strength.

It is a pleasure that in the state of Bihar and Orissa Jharkhand party got 'cock symbol.' In the State of Orissa the Jharkhand party would set up 30 candidates for Assembly seats and 3 for parliament seats. In our own Singh Desum (Singhbhum) the Jharkhand party will set up its candidates for all seats. And it is indeed a great pleasure that the Jharkhand party has got back 'Sim Sandi' box. Those brothers and sisters who would be set up as candidates on behalf of the Jharkhand party would be allotted boxes with a cock symbol.

It is this cock which can remove our miseries. Recognise very well this virtuous box with cock symbol and drop your votes only in the box with cock symbol. The sandi sim (cock) will fly all over the states of Orissa, Bihar, Madhya Pradesh and Bengal. Therefore, brothers and sisters, be careful and alert. Do not fall in false talks. Do not sell your victorious cock for money.

Catch hold the victorious cock with pleasure. Test ass covers with tiger's skin and coloured Jackal.

Identify them at the time of weeping or talk. That is why our Marang Gomke (great leader) has been always saying to us that you brothers and sisters should lend your ears and open your eyes. Do not become

blind and deaf otherwise you would earn eternal miseries for your grand children (descendants). Therefore I humbly pray to you to put your votes in the box with cock symbol.

'Jai Jharkhand'

'Jai Hind'

One who prays

Sri Shubhnath Deogam, M.L.A.  
Dumbisai."

As regards the pamphlet No. 1 and which I have quoted under issue No. 4, it was held by the High Court that it did not amount to an appeal on the ground of religion. Regarding the second pamphlet quoted above also, the High Court held that it amounted to an appeal on the ground of religion. What is important to note is that the Supreme Court in appeal disagreed with the High Court and ruled that the second pamphlet quoted above did not amount to an appeal on the ground of religion at all.

So far as the first pamphlet is concerned, the very reading of it shows that it was a direct and forceful appeal to the religious conscience of the Adibasis. Their Lordships of the High Court as well as the Supreme Court, discussing the said pamphlet, definitely came to the conclusion that there was no possibility at all of construing this pamphlet, reasonably in any other manner which would disassociate it from an appeal on the ground of religion. There is no such appeal made in the instant case. I have already discussed the facts of our case in this respect. But what is important to note is that the second pamphlet which the Supreme Court held not to amount to such an appeal on the ground of religion, in spite of the fact that the 'cock' which was held to have a religious significance and importance in the religious rites of the Adibasis, was referred to therein. In that case also, by the second pamphlet, there was an appeal to the voters to vote for the 'cock', which, as I have already stated, was held to be having a religious significance and yet it was held that it did not amount to an appeal on the ground of religion. In the present case also, there is nothing more proved than the leaflets which contained a reference to the 'Dhruva Tara' and an appeal to vote for the 'Dhruva Tara'. So, even if the 'Dhruva Tara' has any religious significance, that fact alone cannot go to constitute such an appeal as to fall within the purview of section 123(3). What is important to note is that the Supreme Court and the Patna High Court set aside the election because they came to a definite conclusion that the specific wordings contained in the first pamphlet amounted to a direct appeal to the Adibasis on the ground of religion and not because of the use of the word 'cock' having some religious significance. Under these circumstances, I do not think this case can help the petitioner. On the contrary, I believe that the reasoning adopted by Their Lordships goes to support the case of the respondent No. 1.

118. I now consider the allegation in respect of the symbol of God Somnath. The alleged use of this symbol, as stated above, is in respect of Exs. 28 and 29. I have already held that these pamphlets, which are the invitations on behalf of the Kshatriya Sabha for meetings, could not be held to have been published with the consent of respondent No. 1 and, in any case, it would not be held that there was his consent, express or implied to the use of these emblems. The point for consideration under this issue is whether any appeal to these emblems are proved to have been made. There is not an iota of evidence on this score except the fact that these emblems appear on these two pamphlets. On the reasoning of the ruling in *Shivram Sawant Bhonsale V. Pratap Rao Deorao* 17 E.L.R. 37 (Bombay High Court), I hold that it cannot be held that there was any appeal to these emblems. In connection with this point, it is of some importance to note that it was usual with the said sabha to use some emblems on the invitation cards which indicated God Shiva issued by the Kshatriya Sabha and that it was not for use for the first time for the election purposes only. One such instance is at least on the record which is exh. 47, an invitation card issued in March 1959. There is one other thing that may be noted that on ex. 26, which is another invitation leaflet of the Kshatriya Sabha, the emblem representing 'Ganpati' is shown. This shows that it was usual for this Kshatriya Sabha to use some sort of an emblem which had reference to some God and it was not used on Exs. 28 and 29, or as a matter of that, annexure 'F', with the object of appealing to the voters to vote on the ground of religion for the furtherance of the election prospects of respondent No. 1. It has further to be noted that these are meetings called by the Kshatriya Sabha and not by the Swatantra Party. From all these facts and discussion, I hold that there was no appeal made to the emblem of God Somnath, nor was there an

appeal on the ground of religion in respect thereof, or was it made for the furtherance of the prospects of election of respondent No. 1.

119. I hold issue No. 5 in the negative.

120. *Issue No. 8.*—The case of the petitioner on this issue is that apart from publishing and circulating the leaflets and pamphlets, appeal was also made orally in the meetings held of the Kshatriya Sabha and the Swatantra party, on the ground of religion and community. In order to prove this, the oral evidence on behalf of the petitioner consists of himself and the three other witnesses. The Petitioner himself in his evidence Ex. 128 in the beginning tried to talk about several meetings of the said 'Sabha' and the 'Swatantra Party' but then later had to admit that he had attended only one meeting held in his own village at Ajarpura and had no personal knowledge about any other meetings or conventions of the 'Sabha' or the 'Swatantra Party'. Regarding the meeting, he attended, his story in examination in chief is to the effect that the Swatantra party had called meeting on 12th February, 1962. In that meeting, the first speech was made by Fatehsinh Chauhan and he had referred to the fact of the published statements of respondent No. 1 and Chhatrasinh Atals Annexure 'A' and Ex. 83 respectively and had said that respondent No. 1 was their leader and should make him successful in the election. That Chimanlal Dadubhai Desai had made a speech to the same effect. Vadodia had said that he was in Congress for 10 years but Congress had not given any benefit to the community, therefore he had disassociated himself from Congress and if those present were to vote for him and if he succeeded, he would be more useful to them. This meeting was called by Fatehsinh. In the meeting the persons attending were mostly Kshatriyas. In cross examination, on behalf of respondent No. 2, he has said that the Kshatriya Sabha had decided to join hands with Swatantra party about 6 months prior to the election and they were canvassing on the ground of community. But, as stated above, he has no personal knowledge about any other meetings. In cross examination, on behalf of respondent No. 2, he stated to the effect that it is not true that any of the speakers had appealed that votes should be given to the candidates of the Swatantra party. That the meeting at Ajarpura was called by Fatehsinh on behalf of the Swatantra Party. However, the witness later admitted that he did not know whether the meeting was called by the Kshatriya or the Swatantra party. He further admitted that he did not know how in the election campaign meetings, votes were canvassed by the Swatantra Party. He also admitted that Vadodia was a candidate himself and Ajarpura was within his constituency. Asked about the speeches in the Ajarpura meetings that he had attended, he said that nothing was said in the speeches to explain the reasons why they had severed their connection with the congress or touched the topics of high cost of living or control or licensing system or expressed opposition to cooperative farming or freedom of trade and agriculture. He admitted that he was a follower of congress. This evidence of the petitioner on the point has not impressed me as reliable. It is difficult to believe him when he says that none of the above mentioned topics was at all touched as these were the main grounds on which the respondent No. 1 and his helpers were campaigning. This was a meeting of the Kshatriyas and was held in the Kshatriya Mahallah as admitted by him and still he says he attended it. He is a Patidar himself. He stated there were other five or six Patidars also and has named three or four and said he knew that they were not the followers of the Swatantra Party, yet none of them has been examined to corroborate his story. Fatehsinh named by the Petitioner in his evidence has been examined by respondent No. 1 as his witness. In his deposition Fatehsinh has said, no meeting at all was held at Ajarpura and at no time in such a meeting either he himself or Chimanlal Dadubhai Desai or Vadodia had made any speeches of the kind alleged. Chimanlal Dadubhai Desai, another witness for respondent No. 1, in his deposition Exh. 138, has also denied having attended any meeting at Ajarpura. I have no reason to prefer the uncorroborated evidence of the petitioner, to that of the other two, on this point and I, therefore, do not believe the petitioner's story about the meeting at Ajarpura wherein the alleged speeches were made as tried to be suggested by him in his evidence.

121. The witness for the petitioner Chhotabhai Gohel Ex. 130 has in examination in chief deposed to the effect that he had attended two meetings—one at Nadiad on 4th January, 1962 which was a meeting called by the Kshatriya Sabha and the other at Vadod. The Nadiad meeting was called by the sabha to join hands with Swatantra Party. In the meeting, the respondent No. 1 had made a speech. The witness has tried to actually quote the words of the speech. But even if we believe that what he says is true, I do not think that the speech can be said to amount to an appeal to vote for him on the ground of community, for the furtherance of his prospect of election. The resolution that were passed according to him clearly

show that the stress was on the facts that Kshatriyas should sever the connection with congress, resign their membership of the congress, join the Swatantra party and support the candidates of that party. Besides, I do not think this witness can be treated as an independent witness, on whose words implicit reliance could be placed to prove the exact statement made by the respondent No. 1 in that meeting. He admits that he was formerly a member of the Kshatriya sabha and then he had left it. The ground for leaving it given by him is not very convincing. In any case, he is a dissident from that association, not only that but he admits that he had actively worked in the election as an employee of the congress. He is also employed with the Khadi Bhandar since about 3 months before his deposition. This witness is clearly, therefore, a partisan witness and I am not prepared to accept all that he has stated on the point, without any corroboration from independent evidence. Respondent No. 1 in his evidence has denied that he made any appeal on the ground of community or religion.

122. The witness Exh. 132 Madhavsingh Ralsingh talks about a meeting at village Mogal. He says in examination in chief that respondent No. 1 had said in that meeting and had appealed to give him votes and to Swatantra party. Bhaikaka had also made a similar appeal and so did Natverlal Dave. The witness says he is one of the members of the village panchayat. In cross examination, he admits that he is an active worker of the congress. States Natverlal Dave is a Brahmin. Then so far as Dave's speech is concerned, he admits that as Dave was the supporter of the Swatantra Party, he had appealed to vote for Swatantra party. Witness admits that the said speaker had also criticised the congress policy and touched the topics like free trade, agriculture and high taxes. On behalf of the respondent No. 1, Natversingh Solanki Ex. 139, speaks about the meeting. He has said that speeches were made only to support the Swatantra Party and its candidates and no appeal made by respondent No. 1 to vote for himself at all. Respondent No. 1 has also appealed for himself nor on the ground of caste or religion. This witness Ex. 132, therefore, is also a partisan witness and no facts or circumstances are established to prefer his evidence to the others.

123. The last witness for the petitioner on the point is Ex. 134 Kanjibhai Bhikhabhai. He talks about the meeting at Cambay. He deposed that respondent No. 1 made a speech and had criticised the policy of the congress and said there was no place for good persons to remain with it and, therefore, he had left it. The Kshatriya sabha had also remained with congress, but no advantage was gained and therefore the sabha has also decided to leave it. The sabha has now joined hands with Swatantra party and therefore they have to fight the election through swatantra party. The respondent No. 1 had also explained the principles of the Swatantra party. There is nothing whatever in this evidence which goes to prove the allegation of the petitioner. On the contrary, if at all it goes to support the say of the respondent No. 1 on the point that he and others were campaigning for support to swatantra party and its candidates and not on the ground of caste or religion and that they were explaining the reason why they left congress and joined the swatantra party.

124. The examining of the oral evidence led by the petitioner on this point, therefore, leaves me with only one impression that there is no reliable evidence at all placed on the record by the petitioner. The allegation is of a charge of corrupt practice, a serious charge, and as already discussed the burden lies on the petitioner to establish it by convincing evidence, beyond a reasonable doubt. The evidence of witnesses led by the respondent on this point beyond the witnesses, I have already referred to is of a negative nature. They have all stated that the speeches made at several places where they were present, none had appealed on the ground of caste or religion and that the speeches were confined to appeal to the voters to support swatantra party and its candidates. I, therefore, find that the oral evidence led by the petitioner does not establish the said case and allegation of the petitioner.

125. Apart from oral evidence, the petitioner had tried to support his case on this point by reports of meetings appearing in newspapers. The petitioner on this point tried to prove the contents of the speeches reported in several copies of the paper known as Swatantra sarjan. He examined the editor of the paper. His evidence is exh. 107. He has deposed that he has not preserved the original written reports of the respective meetings, they were destroyed according to the practice after 3 months. He said that during the relevant period, he had employed temporary reporters and these reports were made by them. None of these reporters has been examined before me. The witness has of course said that the reports appearing in his paper had been in accordance with the written reports received but that cannot go to prove the veracity or accuracy of the original reports. In cross examination he has admitted that he made changes in the

report, but the names were not changed. I have herein before cited the authority to support this view of mine. These newspaper copies, therefore, cannot be relied upon for the purposes of proving the fact of the various persons having made the speeches as reported therein. These copies, however have been given the exhibits, as on behalf of the respondent No. 1, his Advocate has given a statement to the effect that he admits execution, which can only mean that he has no objection to their being exhibited without admitting the contents thereof. Besides, they can be referred to for the purposes of the fact of the publishing the star and the words 'Dhruva' used with it. I have dealt with this aspect under the relevant issue.

125. Under all the above discussed facts and circumstances, I hold issue No. 8 in the negative.

126. As I have mentioned hereinabove, issues Nos. 6, 7, 9 and 10 were not pressed, so no finding is necessary to be recorded, to the rest of the contentions and the issues I have given my due deliberation and have recorded my findings thereon. Though the statute intends to make a clear distinction, in the election propaganda of the candidates, between an appeal on the ground of religion, caste or community on the one hand and other kinds of appeal on the other hand and also between 'use' of or 'appeal' to 'religious symbols' and other symbols, it is found that in fact, in some cases, it is not possible always to draw a very defined dividing line. In many a border line case, it becomes necessary to choose between two versions each of which is supported by its own strong set of facts, legal precedents and principles and which appear to be almost well balanced. All the same, case law has by now laid down some over riding fundamental principles to help and guide the decisions of courts in such cases to do justice and equity. It may be said this case is one of such cases. I would like to record appreciation of the fact that the learned Advocates of the parties conducted this petition in the best traditions of the profession and did all to help the Tribunal to correctly assess the strength of their respective cases by placing the best part thereof in a fair and effective way, avoiding pressing in of unnecessary evidence or points of law and even conceding points which could not be fairly supported. After giving due consideration to all the material questions of law and fact, I have come to the conclusion that the petitioner has not been able to discharge the onus of proof cast on him by law and has not proved, in any event, beyond reasonable doubt, that the respondent No. 1 committed any of the corrupt practices alleged and therefore the petition should be dismissed. Accordingly I pass the following order:—

### ORDER

The petitioner has made in the petition allegations against the respondent No. 1 of having committed the corrupt practices of (i) exercising undue influence by way of threat, terror, intimidation or compelling inducement so as to amount to direct interference with free exercise of electoral right of voters, (ii) appeal to voters to vote or refrain from voting on the ground of his religion, caste or community for the furtherance of his election prospects as against respondent No. 2, (iii) use of or appeal to religion symbol for the furtherance of the prospects of his election as against respondent No. 2, (iv) promoting feelings of enmity or hatred between different classes of the citizens of India on the ground of religion, caste or community, for the furtherance of his prospects of election against respondent No. 1. These allegations of corrupt practices have not been proved. The election petition, therefore, fails and is dismissed with costs.

In view of the provisions of section 99(I) (b) and section 120 and taking into consideration the number of days for which the hearing lasted and the nature of the contest, I fix Rs. 500 as the total costs including counsel's and pleader's fees and order the same to be paid by the petitioner to the respondent No. 1. The said costs shall be recovered from the security deposit made by the petitioner. The Petitioner and the respondent No. 2 will bear their own respective costs.

Sd./- N. K. VAKIL,

Member, Election Tribunal,  
Ahmedabad.

Dated 3-10-62.

True Copy

N. K. VAKIL,

P. Judge and Member, Election Tribunal.

[No. 82/216/62.]

New Delhi, the 22nd November 1962

**S.O. 3654.**—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, incurred by the person whose name and address are given below, has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act—

**SCHEDULE**

Name and address of the disqualified candidate	Serial No. and name of constituency	Commission's notification No. and date under which disqualified
1	2	3
Shri Keshava Rishideo, Village Barhonahori Dumka, P.O. Sahlanagar, District Saharsa.	No. 20—Sonbarsa	No. BR-P/20/62 (14), dated the 7th May, 1962.

[No. BR-P/20/62(14-R).]

By Order,

V. RAGHAVAN, Under Secy.

**MINISTRY OF HOME AFFAIRS**

New Delhi, the 4th December 1962

**S.O. 3655.**—In exercise of the powers conferred by entry 3(c) of Schedule I annexed to the Ministry of Home Affairs Notification No. 15/13/59-(V)-P. IV, dated the 13th July, 1962 [G.S.R. No. 991, published in the Gazette of India Part II, Section 3, Sub-section (i), dated the 28th July, 1962] the Central Government is pleased to specify Yuvraj Samvartak Pratap Singh, heir-apparent of the ruler of Udaipur Dharamjaigarh (in District Raigarh, Madhya Pradesh) for the purpose of that entry and directs that the exemption shall be valid in respect of one gun/rifle and one revolver/pistol only.

[No. 16/17/62-P. IV.]

S. K. SINGH, Under Secy.

**ORDER**

New Delhi, the 3rd December 1962

**S.O. 3656.**—In exercise of the powers conferred by sub-section (1) of section 4 of the Inter-State Corporations Act, 1957 (38 of 1957), the Central Government, after consulting the Governments of the States of Maharashtra, Gujarat, Mysore and Rajasthan, hereby make the following Order to amend the Bombay Labour Welfare Board (Reconstitution) Order, 1959, namely:—

1. This Order may be called the Bombay Labour Welfare Board (Reconstitution) Amendment Order, 1962.

2. In State I appended to the Bombay Labour Welfare Board (Reconstitution) Order, 1959, (hereinafter referred to as the said Order),

(1) for the existing entries against serial Nos. 2, 3, 7 and 17, the following entries shall be substituted, namely:—

S. No.	Name of article	No. or Qty.	Book Value	Remarks
			Rs. As. Ps.	
2	Chairs with arms	1	22 0 0	
3	Chairs with arms	9	139 8 0	
7	Table with drawer	1	47 8 0	
17	Benches with back	2	30 0 0	

(2) at the end of the existing entries,

(i) the following entries shall be inserted, namely:—

S. No.	Name of article	No. or Qty.	Book Value	Remarks
			Rs. As. Ps.	
63	Teak wooden Pole (Flag Post)	1	4 0 0	
64	Lanterns (Unservicable)	3	10 0 0	

(ii) for the existing total of the Book value under the 4th Column, the following shall be substituted, namely:—

“2,891-10-1”

3. In Statement II, appended to the said Order,

(1) for the existing entries against serial Nos. 1, 2, 3, 4, 5 and 34 the following entries shall be substituted, namely:—

S. No.	Name of article	No. or Qty.	Book Value	Remarks
			Rs. As. Ps.	
1	Table with two drawers and side cupboard	1	22 0 0	
2	Table without side cup-board	1	15 0 0	
3	Tables with drawers	2	44 0 0	
4	Table with drawers	1	47 8 0	
5	Chairs with arms	4	16 0 0	
34	Benches small	2	110 0 0	

(2) entries against serial Nos. 44, 46 to 49, 55 to 59, and 64 to 67 shall be omitted;

(3) at the end, for the existing total of the Book value under the 4th Column, the following shall be substituted, namely:—

“2,633-10-3.”

4. In Statement III, appended to the said Order,

(1) against serial No. 6 under the column “Name of article”, after the words “Volleyball poles”, the words “Square wooden” shall be inserted;

(2) entries against serial No. 7 shall be omitted;

(3) after the existing entries,

(i) the following entries shall be inserted, namely:—

S. No.	Name of article	No. or Qty.	Book Value	Remarks
			Rs. As. Ps.	
40	Trophies	26	..	
41	Shields	6	..	
42	Lanterns	1	4 8 0	
43	Photos	2	..	
44	Coir Rope	1	1 14 3	
45	Brass Tappeli	1	10 4 1	
46	Lid for Tappeli	1	5 4 0	
47	Aluminium Basin	1	1 12 0	
48	Iron Frying Pan	1	2 14 3	
49	Brass Jalli	1	1 8 0	



(ii) at the end for the existing total of the Book value under the 4th Column, the following shall be substituted, namely:—

"3,383-10-4."

5. For Statement IV, appended to the said Order, the following Statement shall be substituted; namely:—

"STATEMENT IV"

I	Pay as on 30-11-59 2	D.A. 3	H.R.A. 4
	Rs.	Rs.	Rs.
<i>Hubli</i>			
Labour Welfare Centre, Mill Road <i>Welfare Organiser.</i>			
Rs. 80-4-100-5-125			
1. Shri N.B. Baichwal . . . . .	120	50	10
<i>Cleaner</i>			
Rs. 30-1/2-35			
2. Shri T.A. Jadhav . . . . .	35	40	5
<i>Lady Part Time Worker</i>			
Rs. 35-2-45			
3. Smt. S.E. Salins . . . . .	39	35	..
<i>Male Part Time Worker</i>			
Rs. 30 fixed			
4. Shri S.T. Manunnawalli . . . . .	30	35	..
<i>Old Hubli</i>			
Labour Welfare Centre <i>Welfare Organiser</i>			
Rs. 80-4-100-5-125			
1. Shri V.R. Devangmath . . . . .	100	45	5
<i>Cleaner</i>			
Rs. 30-1/2-35			
2. Shri T.U. Meharwade . . . . .	32	40	5
<i>Lady Part Time Worker</i>			
Rs. 35-2-45			
3. Smt. A.G. Basrur . . . . .	39	35	
<i>Male Part Time Worker</i>			
Rs. 30 fixed			
4. Shri J.T. Kalkoti . . . . .	30	35	
<i>Gadag</i>			
<i>Welfare Organiser</i>			
Rs. 80-4-100-5-125			
1. Shri C.G. Deviah . . . . .	125	50	
<i>Cleaner</i>			
Rs. 30-1/2-35			
2. Shri B.D. Chalwadi . . . . .	33	40	

1	2	3	4
	Rs.	Rs.	Rs.
<i>Lady Part Time Worker</i>			
Rs. 35—2—45			
3. Kum. M.A. Kastury . . . . .	37	35	
<i>Male Part Time Worker</i>			
Rs. 30 fixed			
4. Shri G.C. Gangawati . . . . .	30	35	"

[No. F. 8/2/62-SR(R).]

P. N. KAUL, Dy. Secy.

**MINISTRY OF EXTERNAL AFFAIRS***New Delhi, the 26th November 1962*

**S.O. 3657.**—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby directs that the following further amendments shall be made to the Indian Frontier Administrative Service Rules, 1956, namely:—

In Schedule I of the said rules, the existing entry at item (xiii) Deputy Adviser to the Governor of Assam (for NEFA, NHTA and Assam Rifles) be substituted by the following entry:

“(xiii) Secretary to the Governor, for Nagaland, Shillong.”

2. These amendments hereby made shall be deemed to have taken effect on and from 3rd May, 1962.

[No. NI/827/62.]

HAR MANDER SINGH, Dy. Secy.

# MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 29th November 1962

**S.O. 3658.**—In pursuance of sub-rule(2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Expenditure) No. S.R.O. 639, dated the 28th February, 1957, namely :—

In the said notification—

1. In paragraph (1), for the words and figures “Appointing Authority and the authority specified in column 3 shall be the Disciplinary Authority in regard to the penalties specified in column 4”, the following words and figures “Appointing Authority, the authority specified in column 3 shall be the Disciplinary Authority in regard to the penalties specified in column 4 and the authority specified in column 5 shall be Appellate Authority in regard to the penalties specified therein”, shall be substituted.

2. in the Schedule to the said notification, for Part I, the following shall be substituted, namely:—

## PART I—GENERAL CENTRAL SERVICES CLASS II.

Description of post	Appointing Authority	Authority competent to impose penalties and penalties which it may imposed (with reference to item numbers in rule 13)		APPELLATE AUTHORITY
		Authority	Penalties	
1	2	3	4	5

### INDIAN AUDIT AND ACCOUNTS DEPARTMENT.

*Office of the Comptroller and Auditor General.*

Administrative Officer	}	Deputy Comptroller and Auditor General/Additional Comptroller and Auditor General (Personnel).	Deputy Comptroller and Auditor General/Additional Comptroller and Auditor General (Personnel).	All Deputy General	}
Assistant Private Secretary to the Comptroller and Auditor General.					

1	2	3	4	5
Administrative Officer, Indian Audit and Accounts Service Training School.	Deputy Comptroller and Auditor General/Additional Deputy Comptroller and Auditor General (Personnel).	Deputy Comptroller and Auditor General/Additional Deputy Comptroller and Auditor General (Personnel).	All	For (i) to (iii)— Comptroller and Auditor-General.  For (iv) to (vii)— President.
<i>All Accounts and Audit Offices subordinate to the Comptroller and Auditor General.</i>		Principal	(i) to (viii)	
Assistant Accounts Officer	Accountant General; Additional Accountant General; Comptroller;	Accountant General; Additional Accountant General; Comptroller;	All	
Assistant Audit Officer	Director of Audit, Defence Services; Director of Commercial Audit; Director of Audit, Food, Rehabilitation, Supply, Commerce, Steel and Mines; Chief Auditor, Railways.	Director of Audit, Defence Services; Director of Commercial Audit; Director of Audit, Food, Rehabilitation, Supply, Commerce, Steel and Mines; Chief Auditor, Railways.	All	

[The above said schedule was last amended vide S.O. 2960 dated the 14th September, 1962].

[No. F. 10(7)-E.G.L/62.]

C. R. KRISHNAMURTHI, Dy. Secy.

**(Department of Expenditure)**

*Corrigendum*

*New Delhi, the 24th November 1962*

**S.O. 3659.**—In the Ministry of Finance, Notification No. 20(2)-E.G.I/62, dated the 14th September, 1962 [Published as S.O. 2960 in the Gazette of India Part II Section 3(ii) dated the 29th September, 1962] containing amendment to the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the following amendment may be made in the penultimate line:—

For “10th February, 1962” read “31st January, 1962”.

[No. F.20(2)-E.G.I/62.]

R. B. GUPTA, Under Secy.

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**(Department of Economic Affairs)**

*New Delhi, the 24th November 1962*

**S.O. 3660.**—It is notified for general information that in pursuance of sub-section (1) of Section 34 of the Industrial Finance Corporation Act, 1948 (15 of 1948), Messrs. S. B. Billimoria and Company, Chartered Accountants, 113, Mahatma Gandhi Road, Fort, Bombay, have been elected by the parties mentioned in sub-section (3) of Section 4 of the said Act, as one of the two auditors of the Industrial Finance Corporation of India for the year ending 30th June, 1963.

[No. F. 2(84)-Corp/62.]

**S.O. 3661.**—In pursuance of Sub-section (1) of Section 34 of the Industrial Finance Corporation Act, 1948 (15 of 1948) the Central Government in consultation with the Comptroller and Auditor General of India, hereby appoints M/s. S. Vaidyanath Aiyar & Co., Chartered Accountants, New Delhi as one of the Auditors of the Industrial Finance Corporation of India for the year ending 30th June, 1963.

[No. F. 2(84)-Corp./62.]

S. S. SHARMA, Under Secy.

## (Department of Economic Affairs)

New Delhi, the 30th November 1962

S.O. 3662.—Statement of the Affairs of the Reserve Bank of India, as on the 23rd November 1962

## BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up. . . . .	5,00,00,000	Notes . . . . .	15,09,05,000
Reserve Fund . . . . .	80,00,00,000	Rupee Coin . . . . .	2,16,000
National Agricultural Credit (Long Term Operations) Fund . . . . .	61,00,00,000	Small Coin . . . . .	2,88,000
National Agricultural Credit (Stabilisation) Fund . . . . .	7,00,00,000	National Agricultural Credit (Long Term Operations) Fund . . . . .	
Deposits :—		(a) Loans and Advances to :—	
(a) Government		(i) State Governments . . . . .	23,97,15,000
(i) Central Government . . . . .	65,32,28,000	(ii) State Co-operative Banks . . . . .	11,52,73,000
(ii) State Governments . . . . .	5,70,69,000	(iii) Central Land Mortgage Banks . . . . .	..
(b) Banks		(b) Investment in Central Land Mortgage Bank Debentures . . . . .	2,84,88,000
(i) Scheduled Banks . . . . .	81,25,47,000	National Agricultural Credit (Stabilisation) Fund . . . . .	
(ii) State Co-operative Banks . . . . .	1,86,90,000	Loans and Advances to State Co-operative Banks . . . . .	..
(iii) Other Banks . . . . .	5,36,000	Bills Purchased and Discounted :—	
(c) Others . . . . .	163,45,72,000	(a) Internal . . . . .	..
Bills Payable . . . . .	32,11,25,000	(b) External . . . . .	..
Other Liabilities . . . . .	39,40,11,000	(c) Government Treasury Bills . . . . .	91,72,28,000
		Balances held abroad* . . . . .	6,06,47,000
		Loans and Advances to Governments** . . . . .	18,45,49,000
		Loans and Advances to :—	
		(i) Scheduled Banks† . . . . .	1,68,25,000
		(ii) State Co-operative Banks†† . . . . .	133,68,72,000
		(iii) Others . . . . .	1,28,07,000
		Investments . . . . .	203,33,34,000
		Other Assets . . . . .	32,46,31,000
Rupees . . . . .	542,17,78,000	Rupees . . . . .	542,17,78,000

\*Includes Cash and Short Term Securities.

\*\*Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

† Includes Rs. 41,00,000 advanced to scheduled banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

†† Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 28th day of November, 1962,

An account pursuant to the Reserve Bank of India Act, 1934 for the week ended the 23rd day of November 1962  
ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department . . . .	15,09,05,000		Gold Coin and Bullion :—		
Notes in circulation . . . .	2067,90,23,000		(a) Held in India . . . .	117,76,10,000	
Total Notes Issued . . . .		2082,99,28,000	(b) Held outside India . . . .	..	
			Foreign Securities . . . .	88,08,43,000	
			TOTAL . . . .		205,84,53,000
			Rupee Coin . . . .		123,85,65,000
			Government of India Rupee Securities . . . .		1753,29,10,000
			Internal Bills of Exchange and other commercial paper . . . .		..
TOTAL LIABILITIES . . . .		2082,99,28,000	TOTAL ASSETS . . . .		2082,99,28,000

Dated the 28th day of November, 1962.

M. V. RANGACHARI,  
Deputy Governor.

[No. F.3(2)-BC/62.]

**(Stock Exchange Division)**  
*New Delhi, the 3rd December, 1962*

**S.O. 3663.**—The Central Government having considered the application for renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956, (42 of 1956), by the Delhi Stock Exchange Association Limited, and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the said Act, recognition to the said Exchange, under section 4 of the said Act, for a further period of five years commencing on the 9th December, 1962, and ending with the 8th December, 1967, in respect of contracts in securities subject to the condition stated herein below and such other conditions as may be prescribed or imposed hereafter:

**CONDITION**

The membership of the Stock Exchange shall be open only to individuals who shall hold two shares of the Company and are eligible to become and continue to be members of a recognised stock exchange under the Securities Contracts (Regulation) Rules, 1957; provided that such of the members as were admitted to provisional membership on holding one share and on payment of a cash deposit of Rs. 3500 in lieu of another share shall be permitted to continue as provisional members only upto the 8th June, 1963, after which date they shall cease to have any rights even as provisional members, unless they acquire the second share and become members of the Stock Exchange in accordance with the above condition.

[No. F. 1/4/SE/EAD/62.]

A. BAKSI, Jt. Secy.

**CENTRAL BOARD OF REVENUE**

**INCOME-TAX.**

*New Delhi, the 29th November, 1962.*

**S.O. 3664.**—In exercise of the powers conferred by Section 126, of the Income-tax Act, 1961, (43 of 1961), the Central Board of Revenue hereby makes the following further amendments in its Notification SRO-1214, (No. 44-Income-tax) dated the 1st July, 1962, namely:—

In the schedule appended to the said notification for the existing entries in columns 4, 5, and 6 against Sl. Nos. 16, 17, 18, 19, 20A, 20B, 21, 21A, 21B, 21C, 21D, 21E, 21F, 21G, 21H, 21I, 21J and 72, the following entries shall be substituted, namely:—

Sl. Nos.	4	5	6
16	Inspecting Assistant Commissioner of Income-tax 'P' Range, Bombay.	Appellate Assistant Commissioner of Income-tax 'P' Range, Bombay.	Commissioner of Income-tax, Bombay City I, Bombay.
17	Do.	Do.	Do.
18	Do.	Do.	Do.
19	Do.	Do.	Do.
20A	Inspecting Assistant Commissioner of Income-tax 'P' Range, Bombay.	Appellate Assistant Commissioner of Income-tax 'P' Range, Bombay.	Commissioner of Income-tax, Bombay City I, Bombay.
20B	Do.	Do.	Do.
21	Do.	Do.	Do.
21A	Do.	Do.	Do.
21B	Do.	Do.	Do.
21C	Do.	Do.	Do.
21D	Do.	Do.	Do.
21E	Do.	Do.	Do.
21F	Do.	Do.	Do.
21G	Do.	Do.	Do.
21H	Do.	Do.	Do.
21I	Do.	Do.	Do.
21J	Do.	Do.	Do.
72	Inspecting Assistant Commissioner of Income-tax 'P' Range, Bombay.	Appellate Assistant Commissioner of Income-tax 'P' Range, Bombay.	Commissioner of Income-tax, Bombay City I, Bombay.

[No. 83 (F. No. 55/31/62-IT).]



INCOME-TAX

*New Delhi, the 30th November 1962*

**S.O. 3665.**—In exercise of the powers conferred by sub-section (1) of section 122 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Revenue hereby makes the following further amendments to its notification S.O. 1391 (No. 21-Income-tax dated the 7th May, 1962), namely:—

In the Schedule annexed to the said notification for the existing entries against Jalpaiguri Range in column 1 and 2, the following shall be substituted, namely:—

**Jalpaiguri**

1. Jalpaiguri Income-tax Circle, Jalpaiguri.
2. Siliguri Income-tax Circle, Siliguri.
3. Income-tax Circle Darjeeling, Darjeeling.

*Explanatory Note*

NOTE.—This amendment has become necessary due to the bifurcation of an Income-tax, Circle.

(This note does not form a part of the notification but is intended to be merely clarificatory).

[No. 84 (F. No. 50/16/62-IT).]

*New Delhi, the 1st December 1962*

**S.O. 3666.**—In exercise of the powers conferred by sub-section (1) of section 121 of the Income-tax Act, 1961 (43 of 1961) and in partial modification of all previous notification on the subject, the Central Board of Revenue hereby directs that with effect from 5th October, 1962 (forenoon) Shri H. P. Sharma, a Commissioner of Income-tax shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or of such incomes or classes of incomes or of such cases or classes of cases as are comprised in the Income-tax Circles, Wards or Districts in the State of Mysore.

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax Authority subordinate to him.

Provided further that he shall not perform his functions in respect of such persons or of such cases as have been or may be assigned to any Income-tax Authority outside his jurisdictional area.

While performing the said functions the said Shri H. P. Sharma shall be designated as the Commissioner of Income-tax, Mysore with headquarters at Bangalore.

*Explanatory Note*

NOTE.—The amendments have become necessary due to change in the incumbent of Commissioner's post.

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 85 (F. No. 55/11/62-IT).]

**S.O. 3667.**—In exercise of the powers conferred by sub-section (1) of section 121 of the Income-tax Act, 1961 (43 of 1961) and in partial modification of all previous notifications on the subject, the Central Board of Revenue hereby directs that with effect from 15th November, 1962 (forenoon) Shri K. M. S. Reddy, a Commissioner of Income-tax shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or of such incomes or classes of incomes or of such cases or classes of cases as are comprised in the Income-tax Circles, Wards or Districts in the State of Mysore.

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax Authority subordinate to him.

Provided further that he shall not perform his functions in respect of such persons or of such cases as have been or may be assigned to any Income-tax Authority outside his jurisdictional area.

While performing the said functions the said Shri Reddy shall be designated as the Commissioner of Income-tax, Mysore with headquarters at Bangalore.

#### *Explanatory Note*

Note.—The amendments have become necessary due to change in the incumbent of Commissioner's post.

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 86 (F. No. 55/1/62-IT).]

*New Delhi, the 3rd December 1962*

**S.O. 3668.**—In exercise of the powers conferred by Sub-Section (1) of Section 122 of the Income-Tax Act, 1961 (43 of 1961), the Central Board of Revenue hereby makes the following further amendments to its notification S.O. 1322 (No. 18-Income-tax dated the 1st May 1962), namely:—

In the Schedule annexed to the said Notification in col. 2 for the existing entries, against 'A' Range, New Delhi, 'B' Range, New Delhi, 'C' Range, New Delhi, 'F' Range, New Delhi and 'A' Range, Jaipur, the following shall be substituted, namely:—

'A' Range, New Delhi

1. Income-tax-cum-Wealth Tax Circles I and VII, New Delhi.
2. Companies Circles, New Delhi except companies Circle II, New Delhi.
3. Central Circle I(i), V, VI & VII Delhi.
4. B-I, B-I(1), B-III, B-III(1), B-XVI and B-XVI(1), Districts, New Delhi.
5. All Contractors Circles, New Delhi.
6. Ward No. VIII, Delhi.
7. Evacuee Circle, New Delhi.
8. Salary Circles, Delhi.
9. All Private Salary Circles, New Delhi.

'B' Range, New Delhi

1. Income-tax-cum-Wealth Tax Circles III and IX, New Delhi.
2. Special Circles, New Delhi.
3. Additional Special Circle-II, New Delhi.
4. Special Investigation Circles A, B and C, New Delhi.
5. A-I, A-I(1), A-II, A-III, A-IV and A-IV(1) Districts, New Delhi.
6. All Business Circles, New Delhi.
7. Central Circle-II, New Delhi.
8. Ward Nos. VI, IX(1), IX(II), IX(III), IX(IV) and IX(V), Delhi.
9. B-II, B-VIII and B-VIII(1) Districts, New Delhi.
10. Refund Circle, New Delhi.

'C' Range, New Delhi

1. Income-tax-cum-Wealth Tax Circle IV and VIII, New Delhi.
2. Companies Circle-II, New Delhi.
3. Central Circles II, III & IV, Delhi.
4. Estate Duty-cum Income-Tax Circle, New Delhi.
5. B-XIV, B-XIV(1), B-XIV(2), B-XV and B-XV(1) Districts, New Delhi.
6. Foreign Section, Delhi.
7. Survey Wards Nos. I and II, Delhi.
8. Ward Nos. I, I(1), I(2), II, III, IV & V, Delhi.
9. C-I, C-I(1), C-II and C-III Districts, New Delhi.

'F' Range, New Delhi

1. B-V, B-V(1), B-VI, B-VI(1), B-VII, B-VII(1), B-XVII, B-XVII(1), B-XVII(2), B-XVII(3) and B-XVII(4) Districts, New Delhi.

'A' Range, Jaipur

1. A, Additional A, B, Additional B and C Wards, Jaipur.
2. Special Investigation Circles A & B, Jaipur.
3. All Income-tax Wards having Headquarters at Kotah.
4. Alwar.

*Explanatory Note*

Note—The amendments have become necessary on account of creation of new Income-tax Circles in the Commissioner's charge.

(This note does not form a part of the notification but is intended to be merely clarificatory).

[No. 87(F. No. 50/10/62-IT).]

**CORRIGENDUM**

**INCOME-TAX**

*New Delhi, the 29th November 1962*

S.O. 3669.—In the Board's Notification No. 75 dated the 7th November, 1962, published in Part II Section 3(ii) of the Gazette of India as S.O. No. 3438, dated the 17th November, 1962, for the words "shall take effect from 15th November, 1962" appearing in last line of the notification, read "shall take effect from the 1st December, 1962".

[No. 82 (F. No. 50/9/62-IT).]

J. RAMA IYER, Under Secy.

**CUSTOMS**

*New Delhi, the 8th December 1962*

S.O. 3670.—In exercise of the powers conferred by clauses (c) and (d) of section 11 of the Sea Customs Act, 1878, (8 of 1878), the Central Board of Revenue hereby makes the following further amendment to its notification No. 197, Customs dated the 28th June, 1958, namely:—

In the Schedule to the said notification, after the entries relating to wharf No. 23, the following shall be added, namely:—

"Cochin Port	24	Cochin Port Authority	New wharf on the Ernakulam side of Willingdon Island south of berth already declared as wharf under section 11 of the Sea Customs Act, 1878 in the Gazette of India, Notification No. 122 dated the 8th September, 1962. Length about 500' capable of berthing a medium size steamer. Northern limit berth No. 23 declared as wharf under section 11 of the Sea Customs Act, 1878 in the Gazette of India Notification No. 122 dated the 8th September, 1962. Southern limit new berth under construction. Eastern limit back-water and Western limit wharf boundary wall.	All goods	Landing and Shipping"
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[No. 181/F. No. 54/4/62-Cus.IV.]

S. VENKATESAN, Secy.

**OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, BANGALORE****CENTRAL EXCISES***Bangalore, the 19th November 1962*

**S.O. 3671.**—In exercise of the powers vested in me under rule 5 of the Central Excise Rules 1944, I hereby empower the Superintendents of Central Excise to exercise the powers of Collector of Central Excise in their jurisdiction in regard to sanction of refund of initial deposits paid under compounded levy scheme by manufacturers of Khandasari Sugar under Rule 92 B(3) of Central Excise Rules, 1944, subject to the monetary limit of Rs. 500/- in each case.

(Issued from file C. No. IV/16/79/61—B2).

[No. 13/62.]

**CORRIGENDUM***Bangalore, the 7th November 1962*

**S.O. 3672.**—In the Schedule to the Notification No. 2/62, dated 25th January, 1962, published under S.O. 543 in Part II Section 3(ii) of the Gazette of India, dated 24th February, 1962, the following amendments are ordered with immediate effect.

In Sl. No. 5, against Chikmagalur district substitute the following in columns 2, 3 and 4:—

1	2	3	4
5. Chikmagalur	Kalasapur in Chikmagalur taluk.	..	Range Officer of Central Excise Chikmagalur.
	Sringeri in Sringeri taluk.	..	Range Officer of Central Excise Jayapura.
	Holamartar Balagaru Heggur, Karamane Devambali in Koppa taluk.	..	Do.
	Hosakevi in Mudigere taluk.	..	Range Officer of Central Excise Mudigere.

[No. 2/62.]

N. MOOKHERJEE, Collector.

**THE MADRAS CENTRAL EXCISE COLLECTORATE, MADRAS****CENTRAL EXCISES***Madras, the 20th November 1962*

**S.O. 3673.**—In exercise of the powers conferred by Rule 5 of the Central Excise Rules, 1944, the undersigned hereby delegates to the Assistant Collector of Central Excise (Technical) at the Collectorate Headquarters Office, Madras, the powers of the Collector under Rules 189(A) and 189(B) of the Central Excise Rules, 1944. This Collectorate Notification C. No. IV/16/183/57-Ex.Pol. dated 21st February 1958 is hereby cancelled.

[C. No. IV/16/391/62. C. E. POL.]

A. K. ROY, Collector.

**COLLECTORATE OF CENTRAL EXCISE, ASSAM, MANIPUR & TRIPURA****CENTRAL EXCISE***Shillong, the 26th November 1962*

**S.O. 3674.**—In exercise of the powers conferred under Rule 92B(3) of Central Excise Rules 1944, I hereby empower the Superintendent of Central Excise to exercise the powers of Collector of Central Excise in their jurisdiction in regard

to grant of refund of initial deposits paid under compounded levy scheme by manufacturers of Khandswari Sugar subject to the extend of limitations set out in column 2 of the table appended below:—

Nature of refund 1	Monetary limit 2
-----------------------	---------------------

Refund of initial deposits  
paid under compounded levy  
scheme.

Rs. 500/- in each case.

[No. 3/62.]

B. S. CHAWLA, Collector.

**OFFICE OF THE ASSISTANT COLLECTOR OF CUSTOMS, JODHPUR**

*Jodhpur, the 28th November 1962*

To

1. Shri Mohammed s/o Hamida Nai, R/o Nawab Shah, (Pakistan).
2. Yasin s/o Mohd., R/o Montgomery (Pakistan).
3. Gavak Din s/o Moosa, R/o Hyderabad (Pakistan).
4. Faiz Mohd. s/o Mir Bux, R/o Bhawal Nagar (Pakistan).
5. Chhoga s/o Bir Bux, R/o Bhawal Nagar (Pakistan).

**SUBJECT.**—*Customs-Seizure of Pak Currency, Indian Currency and Silver Jewellery on 12th February 1954.*

**S.O. 3675.**—Indian Currency and Silver Jewellery seized from You on the night of 11-12 February 1954 have been ordered to be released to you by the S.D.M., Raisingh Nagar. An intimation is, therefore, given to you that you can take delivery of the same from the Assistant Collector of Customs (Prev.), Kuchaman House, Pali Road, Jodhpur within 10 days of the date of publication of this notice falling which the same will be disposed of according to law.

[C. No. VIII(10)-210/JD/62-23046-47.]

O. P. HASIJA,  
Superintendent (Prev.)  
for Assistant Collector.

**OFFICE OF THE COLLECTOR OF CENTRAL EXCISE COLLECTORATE  
HYDERABAD, DECCAN**

**CENTRAL EXCISES**

*Hyderabad, the 30th November 1962*

**S.O. 3676.**—In pursuance of Rule 5 of Central Excise Rules, 1944, I hereby empower the Superintendents of Central Excise to sanction refund of initial deposits paid under compounded levy scheme by manufacturers of Khandasari Sugar under Rule 92 B(3) of Central Excise Rules 1944, subject to the monetary limit of Rs. 500 in each case.

[No. 16/62.]

R. C. MEHRA, Collector.

**OFFICE OF THE ASSTT. COLLECTOR OF CENTRAL EXCISE AND LAND  
CUSTOMS: GOA FRONTIER DIVISION: BELGAUM**

**NOTICES**

*Belgaum, the 26th November 1962*

**S.O. 3677.**—Whereas it appears that the marginally noted goods which were seized, case No. 1:—

- (1) "Matador Garantie" Hard Rubber combs. (8" X 1½") 34 Dozens made in Austria—Rs. 1020-00.  
(2) "Max" chewing Gum 66 packets made in England, (each containing 75 small packets of 4 pieces in each) Rs. 528-00.  
(3) Zundsteine lighter flints made in Austria. 2 tins, 7800 Grams. Rs. 400-00.  
*Case No. 2*  
Cloves in four gunny bags weighing 213 Lbs. net Rs. 3834-00.

by the Dy. Supdt. Customs and Central Excise Goa Frontier Divn., Belgaum at a place near Bennali village Dist. Belgaum on 19th June 1962 in respect of case No. 1 and at a place near Rakaskop on 14th October 1962 in respect of case No. 2 were imported into India in contravention of Section 167(8) of the Sea Customs Act 1878 and further deemed to have been issued under Section 19 of the Sea Customs Act 1878.

2. Now therefore any person claiming the goods is hereby called upon to show cause to the A.C. Goa Fr. Dn. Belgaum why the above mentioned goods should not be confiscated under Section 167(8) of the Sea Customs Act 1878 and why a penalty should not be imposed under Section 167(8) of the Sea Customs Act 1878.

3. If such a owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 10 days from the publication will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)10-76/62.]

*Belgaum, the 28th November 1962*

**S.O. 3678.**—Whereas it appears that the marginally noted goods which were seized by the Officers of Customs and Central Excise Goa Frontier Division, Belgaum at Watve Village, District Belgaum on 27th

- Case No. 1*  
(i) 213 Great gross of '555' Press Studs made in Germany in five gunny bags Rs. 4260/-  
(ii) 96 mouth organs "PUCK" (Small size) made in Germany, Rs. 192/-  
(iii) One old leather bag Rs. 3/-  
Total Rs. 4455/-  
*Case No. 2*

- (i) 85 Great Gross '555' Press Studs made in Germany at Belgaum. Rs. 1700/-

April, 1962 in respect of case No. 1 and at a place known as Laxmi Tekadi near Belgaum on 26th July, 1962 in respect of case No. 2 were imported into India in contravention of Section 167(8) of the Sea Customs Act, 1878 and further deemed to have been issued under Section 19 of the Sea—Customs Act, 1878.

2. Now therefore any person claiming the goods is hereby called upon to show cause to the Assistant Collector, Central Excise, Goa Frontier Division, Belgaum why the above mentioned goods should not be confiscated under Section 167(8) of the Sea Customs Act, 1878 and why a penalty should not be imposed under Section 167(8) of the Sea Customs Act, 1878.

3. If such a owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 10 days from the publication will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)10-57/62.]

*Belgaum, the 31st November 1962*

**S.O. 3679.**—Whereas it

- Case No. 1*  
Cinamons weighing (77 K. Gms. (Gross) in two bundles, Rs. 3000 00.  
*Case No. 2*  
Cinamon weighing 46 K. Gm. in one wooden case, Rs 1100-00.

appears that the marginally noted goods which were seized by the Officers of Customs and Central Excise, Goa Frontier Division Belgaum at a place near Mannur village in Belgaum Taluka on 1st August, 1962, in respect of Case No. 1 and at Belgaum Railway Station on 19th May, 1962, in respect of Case No. 2 were—imported into India in contravention of Section 167(8) of the Sea Customs Act, 1878, and further deemed to have been issued under Section 19, of the Sea Customs Act, 1878.

2. Now therefore any person claiming, the goods is hereby called upon to show cause to the Assistant Collector C. Ex, Goa Fr. Dn. Belgaum why the above mentioned goods should not be confiscated under Section 167(8) of the Sea Customs Act, 1878, and why a penalty should not be imposed under Section 167(8) of the Sea Customs Act, 1878.

3. If such a owner fails to turn up to claim the above mentioned unclaimed goods or to Show Cause—against the action proposed to be taken within 10 days from the publication will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)10-75/62.]

R. K. AUDIM, Assistant Collector.

## MINISTRY OF COMMERCE AND INDUSTRY

### ORDER

*New Delhi, the 30th November, 1962*

**S.O. 3680 IDRA/6/5.**—In exercise of the powers conferred by Section 6 of the Industries (Development and Regulation) Act, 1951 (63 of 1951), read with rules 5(1) and 8 of the Development Councils (Procedural) Rules, 1962, the Central Government hereby appoints Shri K. P. S. Nair to be a member, till the 10th September, 1963, of the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry No. S.O. 2276, dated the 11th September, 1961, for the scheduled industries engaged in the manufacture or production of electric motors and of machinery and equipment for the generation, transmission and distribution of electric energy (excluding house service meters and panel instruments), and directs that the following amendment shall be made in the said Order, namely:—

In the said Order, for entry No. 20 relating to Shri S. S. Kumar, the following entry shall be substituted, namely:

“20. Shri K. P. S. Nair, Consumers”  
member,  
Central Water and Power Commission,  
Bikaner House, New Delhi.

[No. 1(5)L. Pr./60.]

S. P. KRISHNAMURTHY, Under Secy.

### ORDER

#### EXPORT TRADE CONTROL

*New Delhi, the 8th December, 1962*

**S.O. 3681.**—In exercise of the powers conferred by Section 3 of the Imports & Exports (Control) Act, 1947 (18 of 1947), as in force in India and as applied to the State of Pondicherry, the Central Government hereby makes the following further amendment to the Exports (Control) Order, 1962, namely:—

In Part B of Schedule I to the above Order—for item 7, the following shall be substituted:—

“7. Bones, Bone meal and Bone sinews.”

[No. 2A/Export(5)/62.]

S. HAMID, Dy. Secy.

#### (Indian Standards Institution)

*New Delhi, the 26th November, 1962*

**S.O. 3682.**—In partial modification of the rate of marking fee for BHC, Technical, notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.O. 2328 dated the 16th October, 1959, published in the *Gazette of India, Part II—Section 3—Sub-Section (ii)*, dated the 24th October, 1959, the Indian Standards Institution

herby notifies that the marking fee per unit for BHC, Technical, details of which are given in the Schedule hereto annexed, has been revised. The revised rate of marking fee shall come into force with immediate effect.

#### THE SCHEDULE

Serial No.	Product/Class of Product	No. and Title of relevant Indian Standard	Unit	Marking Fee per Unit
1.	BHC, Technical	IS : 560-1961 Specification for BHC, Technical (Revised)	One Metric Tonne	Rs. 5.00 with a minimum of Rs. 2,000.00 per calendar year.

[No. MD/18/2]

C. N. MODAWAL,

Head of the Certification Marks Division.

### MINISTRY OF STEEL & HEAVY INDUSTRIES

(Department of Iron & Steel)

New Delhi, the 28th November 1962

**S.O. 3683/ESS.COMM/Iron & Steel/27(I)/AM(70).**—The following Notification issued by the Iron and Steel Controller under Sub-clause (1) of Clause 27 of the Iron & Steel (Control) Order, 1956 is published for general information:—

#### "NOTIFICATION

In exercise of the powers conferred by Sub-clause (1) of Clause 27 of the Iron & Steel (Control) Order, 1956 and with the approval of the Central Government, the Iron and Steel Controller, in supersession of all previous Notifications hereby notifies the following revised selling prices of Schedule V-Iron and Steel Defective and Scrap of the Ministry of Steel, Mines and Fuel, Iron & Steel Control, Calcutta's Notification No. S.O. 2249-ESS.COMM/Iron & Steel-15(1) and 27(1) published in Part II Section 3(ii) of the Gazette of India dated 1st November 1958 and No. ISC/AP/62/60 dated 8th November 1960 published in Part III Section I of Gazette of India dated 24th December 1960 as amended from time to time:—

#### SCHEDULE V (Amendment)

*Iron and Steel Defective and Scrap Part I-A*  
(Fresh, Unused Defectives)

#### SCHEDULE V

*Part I-A (Fresh, Unused Defectives)*

Item No.	Description or classification of materials	Maximum basic prices per metric ton at all Railhead Stations in India in Rupees per M/Ton		
		Col. I	Col. II	Col. III
		For sales by Controlled Sources other than those mentioned in Col. II	For sales by Scrap Merchants who have been declared Controlled Sources	For sales by all persons other than those mentioned in Cols. I & II
1	2	3	4	5
		Rs.	Rs.	Rs.
1	Bars & Rods—Mild Steel Rounds and Squares below 80 mm and Flats upto and including 125 mm wide—Defective or Rejected Bars above 2.75 m long and Rods above 2.45 M long Base	573	598	618



1	2	3	4	5
		Rs.	Rs.	Rs
2	Fishplates—Defective or Rejected for Heavy or light rails . . . . .	517	542	562
3	Plates—Defectives or Rejected 10 mm & up thick 750 mm and above in width, 1500 mm & above in length—Base . . . . .	647	672	692
4	Plates—Chequered 6 mm Defective or rejected—full size—Base . . . . .	663	688	708
5	Rails Steel, Defective or Rejected above 3.65 M and up long			
	(a) Light . . . . .	546	571	591
	(b) Heavy . . . . .	536	561	581
6	Semis—Defective or Rejected (Ingots, Blooms, Billets over 100 mm Slabs over 80 mm thick) . . . . .	434	459	479
7	Sheets—Black—Defective or Rejected and cut down over 610 mm width and not below 1.22 M in length 3.2 to 2.0 mm—Base . . . . .	722	747	767
8	Sheets—Galvanised Corr. Defective or Rejected and Spotted—Full size 0.63 mm gauge—Base . . . . .	839	864	884
9	Sleepers—Steel—Defective or rejected			
	(a) Metre Gauge . . . . .	561	586	606
	(b) Broad Gauge . . . . .	512	537	557
10	Sleepers Bars—Defective or Rejected 2.75 M and above . . . . .	475	500	520
11	Structurals (including Bars, Rounds & Squares 80 mm and above & Flats above 125 mm wide)—Defective, Rejected and non-Standard over 2.75 M long Base . . . . .	588	61 <sup>3</sup>	633
12	Tinplate Waste Waste full size all gauges . . . . .	1099	1129	1149
13	Cold Rolled Sheets—Defective or Rejected and cut down over 610 mm width and not below 1.22 M in length, 3.15 to 2.0 mm—Base . . . . .	794	819	839
14	Hot Rolled Strips or B.P. Sheets in Coils—Defective or Rejected 3.15 mm to 2.00 mm —Base . . . . .	688	713	733
15	Cold Rolled Strips in Coils—Defective or rejected 3.15 mm to 2.00 mm—Base . . . . .	760	785	805

N.B.—Items marked Base, will carry only Sectional Extras as in Extras List for Prime quality Steel.

*Part II-A (Fresh Re-rollable Scrap)*

Item No.	Description or classification of materials	Maximum basic prices at all Railhead Stations in India in Rupees per M/Ton
1	2	3
		Rs.
1	Plates, Shearing (resulting from fabrication work or from Producers) both Plain and chequered of thickness 8 mm and up . . . . .	426
2	Rails, Steel-heavy, cuttings 0.61 M to 3.65 M long . . . . .	384

I	2	3
		Rs.
3	Roll—spoils 20 mm and thicker . . . . .	426
4	Semis—Defective Billets upto 100 mm and Slabs upto 80 mm sheet Bars, Tin-bars and Sleeper Bars and Flat Bars and also Sheet Bar and Tin Bar crop Ends above thickness 8 mm and up . . . . .	434
5	Sleeper Bars—cuttings 0·61 M to below 2·75 M . . . . .	426
6	Structurals, cuttings, viz., Joists, Channels and Angles 0·61 M to 2·75 M long and 8 mm thick and up . . . . .	426
7	All other fresh materials considered by Iron & Steel Controller as suitable or fit for re-rolling . . . . .	421
<i>Part II-B (Used Re-rollable Scrap)</i>		
1	Axles straight 100 mm dia and below (Railway Loco C. & W.) fit for re-rolling . . . . .	364
2	Draw Bars—Steel (with or without Hooks) above 1·80 M long . . . . .	335
3	Fish-Plates for Heavy Rails, unserviceable . . . . .	315
4	Plates—Shipbuilding, Railways, etc. with or without holes-8 mm and up thickness . . . . .	325
5	Rails—Steel Heavy 0·61 M to 3·65 M long (Including Points and Crossings and unserviceable Rails of all length) . . . . .	335
6	Sleepers, Steel—Full lengths . . . . .	325
7	Structurals—including Bars (Rounds and Squares 80 mm and above Flats above 125 mm wide) 0·61 M to 2·75 M long . . . . .	335
8	Tie Bars—Mild Steel-punched 0·61 M long and over . . . . .	285
9	Tyres Scrap (with or without studholes) . . . . .	335
10	All other used materials from any source including such scrap recovered from old fabrication heavy structurals and Bars over 8 mm thickness inclusive suitable or fit for re-rolling . . . . .	320

N.B.—(i) The following Railway materials will be included in item No. 10 of Part II-B above:—

1. Fabricated materials of Rounds, Squares and Flats with and without attachments.
2. Fire Prickers—31.75 mm square and up.
3. Truss Bars—31.75 mm square and up.
4. Beams, fabricated, without attachment.
5. Channels, fabricated, comprising of bogie under-frames and wagon under-frames.
6. Channels, fabricated, Engine and Tender Frames.
7. Locos Tender and Bogie frames fabricated from heavy M.S. Plates.

N.B.—(ii) If any material described under Part II-A and II-B above is allotted to a Controlled Scrap Merchant for resales, the chargeable rate of the Stockist will be Rs. 25/- per M/Ton more than the rate fixed for the materials under these Parts.

*Part II Ingot Scrap in Forms and Rejected Bottom Plates,*

Item No.	Description or Classification of r.	Rate per M/ton at all Rail head Stations in India		
		Col. I	Col. II	Col. III
		Rs.	Rs.	Rs.
1	Unbroken—7·11 M/Ton to 9·14 M/Ton. . . . .	138	153	173
2	Semi-broken 1·02 M/Ton and under . . . . .	148	163	183
3	50 Kg. and under, broken by Controlled Scrap Merchants . . . . .	192	207	..

N.B.—The control on prices of all categories of scrap under Parts IB, IC and III except Ingot Mould Scrap in all forms have been removed with effect from the date of publication of this notification. The control on prices of cuttings included in Part I-A should also be deemed to have been removed from the date of publication of this notification.

## CONDITIONS FOR SALE

### PART I—GENERAL

1. This Scrap Price Schedule has been divided into the following parts:—

- (1) Part I-A—Fresh unused Defectives.
- (2) Part II-A—Fresh Re-rollable Scrap.
- (3) Part II-B—Used Re-rollable Scrap, and
- (4) Part III—Ingot Mould Scrap in all forms and Rejected Bottom Plates.

2. The prices shown in the above Schedule and the other provisions relevant thereto as set forth below shall come into force with effect from the date on which they are published in the Gazette of India and notwithstanding the rates at which an order has been booked and/or materials paid for, shall apply to all deliveries effected on or after that date. In cases where deliveries are effected by Rails, the date of Railway Receipt shall be deemed to be the date of delivery.

3. The prices in this Price Schedule are made applicable at all Rail Head Stations in India.

4. (a) Extras for section, gauge or thickness or for quality as admissible from time to time, for prime quality steel will apply to Defectives, only to the extent indicated in the foot notes to the Scrap Price Schedule.

(b) Where a lot consists of a mixture of different Sections, sizes, thicknesses or gauges and a separate price for mixed lots has not been fixed, the price will be calculated on the lowest priced section, size, thickness or gauge.

5. These prices are for cash sales. The question of credit facilities is a matter for negotiation between the buyer and the seller.

6. (i) Octroi, Sales or other taxes incurred in the process of delivery of Defectives and Scrap from the seller to the buyer shall be borne by the latter.

(ii) The buyer shall pay to the Seller the Central Sales Tax incurred by the Seller under the Central Sales Act, 1956, in obtaining the materials (Defectives and Scrap) and also the Central Sales Tax if any incurred on the sales of Scrap and Defectives to the buyer.

7. Where no appropriate price has been notified for any item of scrap, the Controller may classify such item or items and fix such price as he may consider appropriate.

8. The chargeable weight in respect of all kinds of Defectives and Scrap shall be actual scale weight.

A—Special Conditions for Sales by the Main Producers [*viz.*, Messrs Tata Iron & Steel Co. Ltd., Calcutta, Indian Iron & Steel Co. Ltd., Calcutta, Hindustan Steel Ltd., (Bhilai Rourkela and Durgapur Projects) and Mysore Iron and Steel Works, Bhadravati and by Secondary Registered Producers *viz.*, Indian Steel & Wire Products Ltd., Indranagar and Tinplate Co. of India Ltd., Tatanagar].

1. (a) Sales and despatches in full wagon loads of Defectives Scrap etc., by the above Main and Secondary Registered Producers shall be made f.o.r. destination *i.e.*, the base prices shown in Col. I and materials shall be despatched 'freight Paid'.

(b) Where wagons are not fully loaded, the customer shall pay the f.o.r. destination rate plus the difference between the actual freight per ton and the amount of freight per ton which would have been incurred if the wagon had been fully loaded.

(c) Where the above Main and Secondary Producers sell a lot f.o.r. destination basis and the materials are sent at the customers' request by a route or means

of transport, other than the cheapest, the extra cost shall be borne by the customer.

(d) For deliveries by Rail in 'smalls' sales shall be made f.o.r. despatching station i.e., the base prices shown in Col. I and materials will be despatched 'freight to pay'. In such cases, the actual freight shall be borne by the buyer.

**B—Special Conditions for Sales by Registered Producers (other than the Main Producers and Messrs. Indian Steel & Wire Products Ltd., and Tinplate Co. of India Ltd.) and Controlled Sources (other than controlled Scrap Merchants).**

1. Sales and despatches by the Registered Producers (other than the Main Producers and Messrs. Indian Steel & Wire Products Ltd., Tinplate Co. of India Ltd.) and Controlled sources (other than Controlled Scrap Merchants) shall be made f.o.r. Seller's siding or f.o.r. despatching station, as the case may be, at Col. I Price. Actual freight from the despatching station, to the destination station shall also be borne by the consignee.

**C—Special Conditions for sales by the Controlled Scrap Merchants.**

1. The rates shown in Col. II of Parts I-A & III will apply to all sales by Controlled Scrap Merchants.

2. All sales by Controlled Scrap Merchants are ex-their yards or f.o.r. their siding. No extra charges are admissible when delivery is made ex-yard or f.o.r. their siding, or into workshops adjoining to the Controlled Scrap Merchants' yard. For such sales, the charges incurred for loading defectives or scrap in the Wagons or Lorries shall be borne by the Controlled Scrap Merchants. Where delivery is undertaken by the Controlled Scrap Merchants at the request of the buyer, the delivery charges shall not except by special arrangements between the Controlled Scrap Merchants and the buyer, exceed the following rates:—

	Rate per M/ton
	Rs. nP.
Calcutta	.. 9.84
Bombay	.. 9.84
Madras	.. 6.40
Delhi (Old and New)	.. 5.66
Kanpur	.. 7.87
Jullundur	.. 3.94
Nagpur	.. 4.92
Vizianagram	.. 2.95
Cuttack	.. 6.89
Ambala	.. 4.92

**D—Special conditions for sales by all persons other than Main Producers, Registered Producers (other than Main Producers), Controlled sources and Controlled Scrap Merchants.**

1. The base rates given in Col. III of Parts I-A & III will apply ex-yard.

A. N. BANERJI,

Iron and Steel Controller".

[No. SC(C)-2(26)/62-Vol.III.]

C. A. NAIR, Under Secy.

## MINISTRY OF MINES AND FUEL

New Delhi, the 27th November 1962

**S.O. 3684.**—The Central Government hereby appoints Shri G. K. Mishra, Additional District and Sessions Judge, Cuttack, Dhenkanal, as Tribunal for the purpose of determining the amount of compensation that may be payable under the Coal Bearing Areas (Acquisition and Development) Act, 1957.

[No. C2-1(6)62.]

**S.O. 3685.**—Whereas by the notification of the Government of India in the (late Ministry of Steel, Mines and Fuel) Department of Mines and Fuel S.O. 133, dated the 11th January, 1961, under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to acquire the lands in the locality specified in the Schedules appended to that Notification;

And whereas the competent authority in pursuance of Section 8 of the said Act has made his report to the Central Government;

And whereas the Central Government after considering the report and after consulting the Government of Bihar is satisfied that—

- (a) the lands measuring 960.57 acres or 389.03 hectares described in Schedule A appended hereto; and
- (b) the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 2831.54 acres or 1146.77 hectares described in Schedule B appended hereto;

should be acquired.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 9 of the said Act, the Central Government hereby declares that the land measuring 960.57 acres or 389.03 hectares described in the said Schedule A and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 2831.54 acres or 1146.77 hectares described in the said Schedule B are hereby acquired.

The plans of the areas covered by this Notification may be inspected in the office of the Deputy Commissioner, Hazaribagh or in the office of the Coal Controller, 1, Council House Street, Calcutta or in the office of the National Coal Development Corporation Ltd. (Revenue Section), Darbhanga House, Ranchi.

# BLOCK G (CHANO-RIKBA BLOCK)

## SCHEDULE A

*Drawing No. Rev./66/62, Dated 19-9-62.*

(Showing lands acquired)

'All Rights'

### Sub-Block I

SL No.	Village	Thana	Thana No.	District	Area	Remarks
1	Kura	Mandu	30	Hazaribagh	403.02 acres or 163.22 hectares	Part
2	Rikba	Mandu	31	"	49.30 acres or 19.97 hectares	Part
3	Khapia	"	29	"	508.25 acres or 205.84 hectares	Part
TOTAL :					960.57 acres (Approx.) or 389.03 hectares (Approx.)	

*Plot Nos. acquired in village Rikba :—*

1(P), 187(P), 194(P), 195 to 207, 208(P), 213(P), 214(P), 955(P), 1133(P), and 1139(P).

*Plot Nos. acquired in village Kura :—*

428(P), 445(P), 448(P), 449(P), 905(P), 912(P), 913, 914, 915(P), 916 to 920, 921(P), 922(P), 23(P), 924(P), 925(P), 926 to 931, 932(P), 933(P), 934, 935(P), 958(P), 970(P), 971 to 973,

974(P), 1020(P), 1021(P), 1022 to 1024, 1027(P), 1028(P), 1029, 1030(P), 1031(P), 1032(P), 1033, 1034, 1035(P), 1036, 1037(P), 1038(P), 1039(P), 1040 to 1116, 1117(P), and 1122.

*Plot Nos. acquired in village Khapia :—*4(P), 20(P), 21(P), 38(P), 52(P), 53(P), 56(P), 57(P), 58, 59(P), 61(P), 64(P), 65(P), 66, 67, 68(P), 69(P), 70 to 72, 73(P), 74, 75(P), 76(P), 78(P), 79 to 402, 403(P), 404 to 409, 410(P), 411 to 413, 414(P), 415 (P), 426(P), 427 to 431, 432(P), 433(P), 434(P), 449(P), 454(P), 681, 682 and 683.

### BOUNDARY DESCRIPTION

1-2 line passes through Plot Nos. 4 and 78 in village Khapia.

2-28-3-4 line passes through Plot Nos. 78, 403, 432, 433, 434, 426, 414, 415, 449, 410 & 454 in village Khapia, through Plot Nos. 955, 1133, 208, 1139, 213, 214 and 187 in village Rikba.

4-5 line passes through Plot Nos. 187, 194 & 1 in village Rikba, through Plot Nos. 428, along the Western boundary of Plot Nos. 1089, 1040, through Plot Nos. 1039, 1038, 1037, 445, 1035, 448 along the western boundary of Plot No. 1020 and through Plot Nos. 449 and 1021 in village Kura.

5-6 line passes through Plot Nos. 1020, 1028, 1028, 1030, 1031, 1032, 974, 970, 933, 935, 958, 932, 912, 915, 905, 922 and 921 in village Kura.

6-1 line passes through Plot Nos. 922, 923, 925, 924, 1117 in village Kura, through Plot Nos. 20, 21, 52, 53, 57, 56, 38, 61, 59, 64, 65, 68, 69, 73, 75, 76, and 4 in village Khapia.

### SCHEDULE B

#### Sub-Block II

*Draughting No. Rev/66/62 Dated 19-9-62.*

#### Mining Rights

Sl. No.	Village	Thana	Thana No.	District	Area	Remarks.
1	Chano	Barkagaon	151	Hazaribagh	661.74 acres or 268.00 hectares	Part
2	Lumunga	Barkagaon	150	Hazaribagh	81.42 acres or 32.98 hectares.	Part
3	Rikba	Mandu	31	,,	178.27 acres or 72.20 hectares	Part
4	Kura	,,	30	,,	14.00 acres or 5.67 hectares	Part
TOTAL					935.43 acres (Approx.) or 378.85 hectares (Approx.)	

*Plot Nos. acquired in village Lurunga :—*

485(P), 486(P), 487(P), 903(P), 904(P), 910(P) & 911(P)

*Plot Nos. acquired in village Chanc :—*

4(P), 5, 6(P), 7 to 39, 40(P), 41(P), 56(F), 57(F), 80(P), 81, 82(P), 83(P), 84(P), 85(F), 86(P), 87(P), 88(P), 89 to 159, 160(P), 161(P), 162(P), 163 to 183, 184(P), 185(P), 186(P), 193(P), 224(P), 228(P), 229 to 241, 242(P), 243(P), 244 to 247, 248 (P), 249(P), 252(P), 253, 254(F), 255(P), 256(P), 257(P), 258 to 260, 261(P), 262(P), 263(P), 264, 265(P), 266(P), 267 to 282, 283(P), 284(P), 285(P), 286 to 294, 295 (P), 296 to 299, 300(P), 301(P), 302(P), 375(F), 434(F), 436(P), 437, 438 (P), 461(P), 464(F), 585, 586 and 587.

*Plot Nos. acquired in village Rikba :—*

1(P), 3(P), 4 to 19, 20(P), 22(P), 24, 25, 26(P), 29(P), 30(P), 31(P), 32, 39(P), 40(P), 42, 43, 44(P), 46, 47, 48(P), 49 to 54, 55(P), 56(P) and 102(P).

*Plot Nos. acquired in village Kura :—*

427(P), 428(P) and 429.

#### BOUNDARY DESCRIPTION

14-15 line passes through Plot Nos. 56, 40, 41, 6, 4, in village Chano,

And along the Western boundary of Plot Nos. 485, 486 in Lurunga.

15-16-17-18-19-10 line passes through Plot Nos. 486, 497, 485 in village Lurunga,

through Plot Nos. 160, 161, 162, in village Chano,

through Plot Nos. 910, 911, 904, 903 in village Lurunga,

through Plot Nos. 3, 20, 22, 1 in village Rikba,

through Plot Nos. 428, 427 in village Kura.

10-11 line passes through plot Nos. 427, 428 in village Kura.

” ” 1, 26, 29, 3, 31, 30, 39, 40, 44, common boundary of Plot Nos. 45 and 46, and through Plot No. 48 in village Rikba.

11-12-13 line passes through Plot Nos. 48, 108, 3, 56, 55, in village Riba,

” Plot Nos. 184, 186, 185, 193, 224, 228, 242, 295, 302, 301, 300 in village Chano.

13-14 line passes through Plot Nos. 300, 375, 434, 436, 438, 285, 284, 283, 461, 266, 265, 263, 262, 261, 464, 257, 256, 243, 255, 254, 252, 248, 249, 88, 87, 86, 85, 84, 83, 82, 80, 40, 57, and 56 in village Chano.

#### Sub-Block-III

##### Mining Rights.

Sl. No.	Village	Thana	Thana No.	District	Area	Remarks
1	Kura	Mandu	30	Hazaribagh	199·02 acres or 80·60 hectares.	Part.
2	Rikba	”	31	”	117·12 acres or 47·43 hectares.	Part
TOTAL					316·14 acres (Approx.) or 128·03 hectares (Approx).	

*Plot Nos. acquired in village Kura :—*

213(P), 214 to 268, 269(P), 270(P), 272(P), 273 to 277, 278(P), 281(P), 282(P), 283(P), 284, 285, 286(P), 287 to 293, 294 (P), 295(P), 306(P), 308(P), 309, 310(P), 311, 312, 313(P), 314, 315(P), 341(P), 349(P), 356(P), 363(P), 364(P), 365(P), 368(P), 369(P), 370(P), 372(P), 373(P), 374(P), 375, 376(P), 377, 378(P), 379, 380, 381(P), 382(P), 383, 384(P), 397(P), 398(P), 427(P), 428(P), 430 to 432, 433(P), 434 to 437, 438 (P), 439 to 444, 445(P), 446, 447, 448 (P), 449(P), 450(P), 1021(P), 1035(P), 1037(P), 1038(P) and 1039(P).

*Plot Nos. acquired in village Rikba :—*

1(P), 3(P), 26(P), 27, 28, 29(P), 30(P), 31(P), 33 to 38, 39(P), 40(P), 41, 44(P), 45(P), 48(P), 113(P), 114 to 125, 126(P), 127, 128, 129(P), 130, 131(P), 132(P), 134(P), 139(P), 140(P), 141, 142, 143(P), 146(P), 147(P), 148 to 179, 180(P), 181, 182, 183, 187(P), 188 to 193 and 194(P).

## BOUNDARY DESCRIPTION

4-5 line passes through Plot Nos. 187, 194 in village Rikba	428, along the Western boundary of Plot Nos. 1089, 1040 through Plot Nos. 1039, 1038, 1037, 445, 1035, 448 along the Western boundary of Plot No. 1020 and through Plot Nos. 449, 1021 in village Kura.
5-7-8 line passes through Plot Nos.	450, 213, 398, 278, 286, 283, 281, 282, 397, in village Kura.
8-9 line passes through Plot Nos.	397, 398, 295, 294, 272, 270, 269, 306, 308, 310, 313, 315, 356, 363, 364, 365, 438, 433 in village Kura.
9-10 line passes through Plot Nos.	433, 373, 372, 370, 374, 369, 368, 376, 378, 438, 349, 341, 381, 382, 427, 384 in village Kura.
10-11 line passes through Plot Nos.	427, 428 in village Kura.
11-4 line passes through Plot Nos.	1, 26, 29, 3, 31, 30, 39, 40, 44, along the common boundary of Plot Nos. 45 and 46 and through Plot No. 48 in village Tikba.
	48, 45, 113, 126, 134, 129, 132, 131, 139, 140, 143, 147, 146, along the common boundary of Plot Nos. 183 and 184 and through Plot No. 180 in village Rikba.

## Sub-Block—III A.

## Mining Rights.

Sl. No.	Village	Thana	Thana No.	District	Area	Remarks
1	Khapia	Mandu	29	Hazaribagh	245.00 acres or 99.23 hectares	Part
2	Rikba	"	31	"	18.00 acres or 7.29 hectares.	Part
TOTAL					263.00 acres (Approx). or 106.52 Hectares (Approx.)	

## Plot Nos. acquired in village Rikba :—

187 (P), 203(P), 209 to 212, 213(P), 214(P), 1133(P), 1139(P), and 955(P).

## Plot Nos. acquired in village Khapia :—

78(P), 403(P), 410(P), 414(P), 415(P), 416 to 425, 426(P), 432(P), 433(P), 434(P), 435 to 448, 449(P), 450 to 453, 454(P), 455 to 499, 500(P), 501(P), 505(P), 508(P), 509(P), 510(P), 511 to 518, 519(P), 520 to 525, 526(P), 531 to 544, 545(P), 547(P), 548(P), 550(P), 551(P), 552(P), 553(P), 563(P), 559(P), 619(P), 621 to 629, 630(P), 635(P), 637(P), 638 to 640, 641(P), 642 to 647, and 678(P).

## BOUNDARY DESCRIPTION

3-28	line passes through Plot Nos.	187, 214, 1139, 213, 208, 1133, 955 in village Rikba,
	" "	454, 449, 410, 415, 414, 426, 403, 434, 433, 432, in village Khapia.
28-29	line passes through Plot Nos.	403, 78, 526, 678, 641, 637 in village Khapia.
29-25	line passes through Plot Nos.	637, 636, 630, 619 in village Khapia.
25-26	line passes through Plot Nos.	619, 569, 568, 545, 547, 548, 550, 553, 552, 551, 519, 508, 509, 510, 505, 500, 501, 454, in village Khapia.
26-27	line passes along the Central line of Barki Nadi (River).	
27-3	line passes through Plot Nos.	955, 187 in village Rikba.



*Sub-Block-IV*

*Mining Rights.*

Sl. No.	Village	Thana	Thana No.	District	Area	Remarks
1	Khapia	Mandu	29	Hazaribagh	99·12 acres or 40·14 hectares.	Part
2	Rikba	"	31	"	939·75 acres or 380·60 hectares.	Part.
3	Lukuiya	"	32	"	73·80 acres or 29·89 hectares.	Part
4	Chano	Barkagaon	151	"	204·30 acres or 82·74 hectares.	Part
TOTAL					1316·97 acres (Approx.) or 533·37 hectares (Approx.)	

*Plot Nos. acquired in village Chano:—*

184(P), 185(P), 186(P), 187 to 192, 193(P), 194 to 223, 224(P), 225 to 227, 228(P), 242(P), 295(P), 300 (P), 301(P), 302(P), 303 to 310, 311(P), 312(P), 313 to 321, 322(P), 323, 324 (P), 365(P), and 366(P).

*Plot Nos. acquired in village Rikba :—*

3(P), 45(P), 48(P), 55(P), 56(P), 57 to 107, 108(P), 109 to 112, 113(P), 126(P), 129(P), 131(P), 132(P), 133, 134(P), 135 to 138, 139(P), 140(P), 143(P), 144, 145, 146(P), 147(P), 180(P), 184 to 186, 187(P), 215 to 258, 259(P), 267(P), 268(P), 269 to 303, 304(P), 310(P), 318(P), 319(P), 321(P), 322(P), 323(P), 324 to 380, 381(P), 382, 383(P), 384(P), 385(P), 386(P), 393(P), 400(P), 418(P), 419(P), 420(P), 421(P), 422(P), 423(P), 424(P), 425(P), 426(P), 427(P), 436(P), 437, 438, 439(P), 440 to 452, 453(P), 454 to 954, 955(P), 956 to 1093, 1119(P), 1120(P), 1121(P), 1122, 1123, 1124(P), 1125(P), 1126(P), 1127(P), 1128(P), 1129, 1130, 1132, 1134, 1135, 1136, 1138, 1140(P) and 1141.

*Plot Nos. acquired in village Likuiya :—*

1, 2(P), 3 to 6, 7(P), 14(P), 15(P), 16(P), 17(P) and 20(P).

*Plot Nos. acquired in village Khapia :—*

454(P), 500(P), 501(P), 502 to 504, 505(P), 506, 507, 508(P), 509(P), 510(P), 519(P), 545(P), 546, 547(P), 548(P), 549(P), 550(P), 551(P), 552(P), 553(P), 554 to 567, 568(P), 569(P), 570 to 587, 588(P), 589, 590, 591(P), 592, 593, 594(P), 600(P), 614(P), 615 to 618, 619(P) and 684.

**BOUNDARY DESCRIPTION**

13-12 line passes through Plot Nos. 300, 301, 302, 295, 242, 228, 224 in village Chano.

12-11-4-3-27 line passes through Plot Nos. 224, 193, 185, 186, 184 in village Chano.

through Plot Nos. 55, 56, 3, 108, 48, 45, 113, 126, 134, 129, 132, 131, 139, 140, 143, 147, 146, 187, along the common boundary of Plot Nos. 184 and 183 and through Plot Nos. 180, 955 in village Rikba.

27-26 line passes along the Central line of Barki nadi (River).

26-25 line ; passes through Plot Nos. 454, 505, 501, 500, 510, 509, 508, 519, 551, 552, 553, 550, 548, 547, 545, 569, 568, 619 in village Khapia.

25-24 line passes through Plot Nos. 614, 588, 600, 591, 594, in village Khapia.

24-23 line passes along the part village boundry of villages Rikba and Khapia.

23-22 line passes through Plot Nos. 1140, 1128, 1127, 1126, 1125, 1124, 1121, 1120, 1119 in village Rikba.

22-21-20-13 line passes through Plot Nos. 1140, 418, 453, 439, 436, 427, 426, 425, 424, 423, 422, 421, 420, 400, 419, 386, 385, 384, 393, 383, 381, 318, 319, 323, 322, 321, 310, 304, 268, 267, 187, 259, 187, in village Rikba.

through Plot Nos. 20, 17, 2, 16, 15, 14, 7 in village Lukuiya.  
through Plot Nos. 322, 324, 311, 312, 365, 366, 300 in village Chano.

[No. C2-20(1)/62.]

*New Delhi, the 29th November 1962*

**S.O. 3686.**—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel Mines and Fuel (Department of Mines and Fuel) No. S.R.O. 3810 dated the 23rd November, 1957 under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government acquired 1085.38 acres of land in villages Kathara, Bandh, Mahaliband and Borrea, P. S. Gomia in the district of Hazaribagh and also acquired the right to mine, quarry, bore, dig and search for, win, work and carry away minerals in other lands measuring 460.26 acres in the said villages;

And, whereas, Sarvashri Khedu Gope, Damolla Gope and Balwa Gope of village Jhirk P. S. Gomia District, Hazaribagh, the interested parties in respect of the said amount of compensation payable for the acquisition of their lands under section 13 of the said Act;

And, whereas, the amount of compensation payable under the said Act could not be paid due to a dispute as to the sufficiency of the amount of compensation and the title to receive it and also apportionment thereof.

Now, therefore, in exercise of the powers conferred under sub-section (2) of section 14 of the said Act the Central Government hereby constitutes a Tribunal consisting of Shri R. P. Sinha, Additional Judicial Commissioner, Ranchi, and refers the dispute to the decision of the said Tribunal.

[No. C2-20(27)/58.]

**S.O. 3687.**—Whereas by the notification of the Government of India, in the (Late Ministry of Steel, Mines and Fuel) Department of Mines and Fuel S.O. No. 755 dated the 7th March, 1962 under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to acquire the lands and rights in the locality specified in the Schedule appended to that notification.

And whereas no objection has been made to the acquisition of the lands and rights aforesaid;

And whereas the Central Government after consulting the Government of Orissa is satisfied that the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the land measuring 4409.13 acres (1785.70 hectares) described in the said Schedule and reproduced in the Schedule below should be acquired.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 9 of the said Act, the Central Government hereby declares that the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 4409.13 acres (1785.70 hectares) described in the Schedule below are hereby acquired.

The plan of the area covered by this notification may be inspected in the office of the Collector, Dhenkanal (Orissa) or in the office of the Coal Controller, 1, Council House Street, Calcutta or in the office of the National Coal Development Corporation Ltd. (Revenue Section), Darbhanga House, Ranchi.

SCHEDULE

Drg. No. Rev. 53/62.  
Dated 6-8-1962.

Block-Nandira (West Balanda)

'Mining Right'.

(Showing lands where rights to mines, quarry bore, dig and search for, win, work and carry away minerals are acquired).

Sl. No.	Name of village	P.S. No.	District	Area	Remarks
1.	Danra	Colliery	Dhenkanal		Full.
2.	Kuchianali	"	"		"
3.	Jambubahali	"	"		"
4.	Badajorda	"	"		Part.
5.	Mahendrapur	"	"		"
6.	Chintamanipur	"	"		Full.
7.	Natidi	"	"		Part.
Total Area				4409.13 (Approx.) acres or 1785.70 hectares (Approx.)	

Plot Nos. acquired in village Danra :—

I to 5511.

Plot Nos. acquired in village Kuchianali :—I to 272.

Plot Nos. acquired in village Jambubahali :—I to 927.

Plot Nos. acquired in village Badajorda :—I, 2(P), 3(P), 4 to 43, 44(P), 45, 46, 47(P), 48, 49, 50, 51(P), 52, 53, 73(P), 74(P), 76(P), 77(P), 102(P), 104(P), 1314(P), 1315(P), 1316(P), 2932, 2980(P), 3325(P), 3393, 3424, 3429(P), 3430(P), 3434(P), 3435, 11/3437, 3458, 3459, 3462, 3468, 3470, 3473, 3530, 3531, Two un-numbered Plots surrounded by Plot Nos. 1314, 3462 and part Eastern boundary of village Badajorda.

Plot No. acquired in village Mahendrapur :—1(P).

Plot Nos. acquired in village Chintamanipur :—I to 58.

Plot Nos. acquired in village Natidi :—I to 267, 301 to 329, 431 to 483, 597 to 600, 601(P), 1/602, 461/603, 604(P), 601(P)/605.

BOUNDARY DESCRIPTION

J-A-K line passes along the part Western boundary of village Natidi and Western boundary of village Danra, Kuchianali and again Danra and meeting at point 'K'.

K-L line passes along the North Western boundary of village 'Danra' and meeting at point 'L'.

L-M line passes along the Northern boundary of village 'Danra', and meeting at point 'M'.

M-B-C line passes along the Eastern boundary of villages Danra Jambubahali and part Eastern boundary of village Badajorda and meeting at point 'C'.

C-D line passes through two un-numbered plots surrounded by Plot Nos. 1314, 3462 and part Eastern boundary of village Badajorda, 1314, 1316, 1315, 104, 3325, 3429, 2980, 3430, 51, 3434, 73; 74; 47; 75; 77; 44; 102; 3 and 2 of village Badajorda and meeting the point at 'D'.

\*D-E

E-F line passes through Plot No. 2 of village Badajorda and through Plot No. 1 and along Northern boundary of Plot No. 417 of village Mahendrapur and meeting the point at 'F'.

F-G line is the part common boundary of villages Badajorda and Natidi and meeting the point at 'G'.

G-H line passes along the Southern boundary of plot Nos. 267, 301, 329, 328, 431 and 481 of village Natidi and meeting the point at 'H'.

D-E line is the part common boundary of villages Badajorda and Mahendrapur and meeting the point at 'E'.

H-I line passes along the Eastern boundary of plot Nos. 480, 479, 478 and 604 of village Natidi and meeting at point 'I'.

I-J line passes through Plot Nos. 604, 601 and 601/605 of village Natidi and meeting the point at 'J'.

[No. C2.21(2)/59.]

P. S. KRISHNAN, Under Secy.

*New Delhi, the 30th November 1962*

**S.O. 3688.**—In exercise of the powers conferred by clause (I) of article 299 of the Constitution, the President hereby directs that the following instruments may be executed on his behalf by the Chairman, National Mineral Development Corporation Ltd., namely:—

"All contracts and instruments relating to purchase, supply and conveyance, or carriage of materials, stores, machinery, etc., for the Kiriburu Iron Ore Project of the National Mineral Development Corporation Ltd. from Messrs Nissho Co. Ltd., Osaka, Japan".

[No. F. 19(92)/62-MIV.]

N. N. KASHYAP, Jt. Secy.

## **MINISTRY OF FOOD & AGRICULTURE**

**(Department of Agriculture)**

*New Delhi, the 26th November 1962*

**S.O. 3689.**—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following amendments to the Central Potato Research Institute, (Class III and IV posts) Recruitment Rules, 1961, namely:—

1. These rules may be called the Central Potato Research Institute (Class III and IV posts) Recruitment (Amendment) Rules, 1962.
2. In the Schedule to the Central Potato Research Institute (Class III and IV posts) Recruitment Rules, 1961 in Column 10 against item 10

"Research Assistants" for the words "By direct recruitment" the following shall be substituted, namely:—

"25% by promotion from Senior Scientific Assistants in the scale of Rs. 150—5—160—8—240—EB—8—280—10—300 with a minimum period of 5 years service and 75% by direct recruitment."

[No. 17-48/62-Instt.II.]

R. M. L. VAISH, Under Secy.

## MINISTRY OF HEALTH

*New Delhi, the 3rd November 1962*

**S.O. 3690.**—In exercise of the powers conferred by clause (6) of rule 2 of the Indian Port Health Rules, 1955, and clause (9) of rule 2 of the Indian Aircraft (Public Health) Rules, 1954, the Central Government hereby makes the following further amendments in the notification of the Government of India in the Ministry of Health, published with S.O. No. 1524, dated the 26th June, 1961, namely:—

In the said notification in the entries under heading "AFRICA":

- (i) after "Bechuanaland" the entry "Burundi" shall be inserted, and
- (ii) after "Portuguese Guinea", the entry "Ruanda" shall be inserted.

[No. F. 14-3/61-IH.]

**S.O. 3691.**—The following draft of certain rules further to amend the Indian Aircraft (Public Health) Rules, 1954, published with the notification of the Government of India in the Ministry of Health, No. S.R.O. 2218, dated the 17th October, 1956, which the Central Government proposes to make in exercise of the powers conferred by section 8A of the Aircraft Act, 1934 (22 of 1934), is hereby published, as required by section 14 of the said Act, for the information of the persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 10th March, 1963. Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

### *Draft Rules*

1. These Rules may be called the Indian Aircraft (Public Health) Amendment Rules, 1962.

2. In rule 2 of the Indian Aircraft (Public Health) Rules, 1954, in sub-rule (20), for the words "means a certificate conforming with the requirements and the model laid down in Schedules III, IV and V to these Rules," the following words shall be substituted, namely:—

"means a certificate which—

- (i) conforms to the requirements and the model laid down in Schedules III, IV and V to these Rules;
- (ii) is issued only to individuals and cannot, in any circumstance, be used collectively;
- (iii) is issued, in the case of children, separately and is not incorporated in the mother's certificate;
- (iv) is completed in English or in French;
- (v) is signed, in the case of an international certificate, by the parent or guardian of a child who is unable to sign or is authenticated, in the case of an illiterate person, by the mark of such person duly attested by another person to whom the illiterate person is personally known;
- (vi) is signed, in the case of an international certificate issued in India, in his own hand by a qualified medical practitioner whose name is enrolled in the Indian Medical Register maintained under section 21 of the Indian Medical Council Act, 1956 (102 of 1956)."

[No. F. 15-2/62-IH.]

BASHESHAR NATH, Under Secy.

*New Delhi, the 27th November 1962*

**S.O. 3692.**—In exercise of the powers conferred by section 18 of the Pharmacy Act, 1948 (8 of 1948), the Pharmacy Council of India, with the approval of the Central Government, hereby makes the following Regulations further to the Pharmacy Council of India Regulations, published with the notification of the Government of India in the Ministry of Health S.R.O. No. 1496 dated the 25th August, 1952, in Part II, Section 3 of the Gazette of India dated the 30th August, 1952, namely:—

1. These Regulations may be called the Pharmacy Council of India (Amendment) Regulations, 1962.
2. In the Pharmacy Council of India Regulations, after rule 51, the following rule shall be inserted, namely:—

“51-A. A member of the Council elected as its representative to any other body shall be deemed to have vacated his seat if he ceases to be a member of the Pharmacy Council.”

DEVINDER K. JAIN, Asst. Secy.  
Pharmacy Council of India.

[No. F. 7-66/62-D.]

A. C. RAY, Under Secy.

## MINISTRY OF TRANSPORT AND COMMUNICATIONS

(P. & T. Board)

*New Delhi, the 27th November 1962*

**S.O. 3693.**—In pursuance of Para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627, dated 8th March, 1960, the Director General Posts and Telegraphs, hereby specifies the 1st January, 1963, as the date on which the Measured Rate System will be introduced in Cuttack Telephone Exchange.

[No. 31/5/62-PHB.]

S. RAMA IYER,  
Asstt. Director General (PHB).

(Dep'ts. of Comms. of Civil Aviation)

ORDER.

*New Delhi, the 4th December, 1962.*

**S.O. 3694.**—In exercise of the powers conferred by rule 160, of the Indian Aircraft Rules, 1937, the Central Government hereby exempts for a further period of 8 months and 16 days with effect from 16th December, 1962, all holders of appropriate Aircraft Maintenance Engineers Licences granted or rendered valid by the appropriate authorities of the United Kingdom and Australia from the operation of rule 61 in so far as it relates to rules 57, 58 and 60, of the said rules and directs that the holders of such licences may act as Aircraft Maintenance Engineers in connection with the repair, overhaul, modification and maintenance of aircraft owned and operated by Air India.

[No. F. 10-A/94-62.]

S. N. KAUL, Under Secy.

## MINISTRY OF SCIENTIFIC RESEARCH AND CULTURAL AFFAIRS

*New Delhi, the 29th November 1962*

**S.O. 3695.**—Whereas by notification of the Government of India in the Ministry of Scientific Research and Cultural Affairs No. F. 4-6/62-C.I. dated 17th August,

1962 published in Part II Section 3, sub-section (ii) of the Gazette of India dated the 25th August, 1962, the Central Government gave notice of its intention to declare the archaeological monument specified in the Schedule below to be of national importance;

And, whereas, the objection received to the making of such declaration has been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby declare the said archaeological monument to be of national importance.

## SCHEDULE

State	District	Sub-division	Locality	Name of monument	Revenue plot numbers to be included under protection	Area	Boundaries	Ownership	Remarks
1	2	3	4	5	6	7	8	9	10
West Bengal.	Burdwan	Sadar	Deulia	Jain brick temple known as Sat-Deal together with adjacent land comprised in survey plot No. 3134, 3135, 3151, 3154, 3155, 3156, 3156/3744 and 3157.	Whole of Survey plot Nos. 3134, 3135, 3151, 3154, 3155, 3156, 3156/3744 and 3157.	4.14 acres.	<i>North:</i> Survey Plot Nos. 3133, 3137, and 3165. <i>East:</i> Survey Plot No. 3165. <i>South:</i> Survey Plot No. 3163. <i>West:</i> Survey Plot Nos. 3136, 3146, 3147, 3150, 3152, 3153, 3158 and 3159.	Private	Not in religious use.

[No. F. 4-6/62-C.I.]

S. J. NARSIAN,  
Assistant Educational Adviser.



**MINISTRY OF EDUCATION**

*New Delhi, the 29th November 1962*

IN THE MATTER OF THE CHARITABLE ENDOWMENTS ACT, 1890

AND

IN THE MATTER OF THE NATIONAL FOUNDATION FOR TEACHERS' WELFARE

**S.O. 3696.**—In partial modification of this Ministry's Notification No. F. 17-90/61-A.3 dated the 25th June, 1962, Shri K. R. Ramachandaran, Deputy Secretary in the Ministry of Education has been appointed as Secretary-Treasurer of the Foundation with immediate effect in place of Shri B. N. Malhan, Deputy Secretary.

[No. F. 17-90/61-A.3.]

C. L. DHINGRA, Under Secy.

*New Delhi, the 4th December, 1962*

**S.O. 3697.**—In exercise of the powers conferred by clause (b) of sub-section (2) of section 5 of the University Grants Commission Act, 1956, read with sub-section (3) of section 6 of the said Act, the Central Government appoints Shri V. T. Dehejia, Secretary, Ministry of Finance (Departments of Revenue and Expenditure), Government of India as Member of the University Grants Commission vice Shri S. Bhoothalingam who has resigned and the resignation accepted by the Central Government with effect from 27th November, 1962.

[No. F. 24-45/62-U.5.]

P. N. KIRPAL, Secy.

**MINISTRY OF WORKS, HOUSING & SUPPLY**

*New Delhi, the 30th November 1962*

**S.O. 3698.**—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1958 (32 of 1958), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Works, Housing and Supply No. S.O. 307 dated the 28th January, 1959 as amended by Notification No. S.O. 2516 dated the 3rd November, 1959 namely:—

In the table below the said notification for the entry in column 1 against Serial No. 4, the following shall be substituted, namely:—

"Director of Estates, Additional Director of Estates and Deputy Directors of Estates, Government of India, New Delhi".

[No. 24/1/62-EE.II.]

**S.O. 3699.**—In pursuance of clause (b) of Section 2 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), and in partial modification of the notification of the Government of India in the late Ministry of Works, Production and Supply No. S.R.O. 151 dated the 28th January, 1952, the Central Government hereby authorises the officer mentioned in column 1 of the subjoined Table to perform the functions of the Competent Authority under the said Act for the areas specified in the corresponding entry in column 2 of the said Table.

THE TABLE

(1) Officer	(2) Areas
The Additional Director of Estates, New Delhi.	The whole of the Union territory of Delhi and the area within the jurisdiction of the Municipality at Simla.

[No. E.E. II (2)/59.]

C. P. GUPTA, Joint Secy.

## (Department of W. &amp; H.)

New Delhi, the 29th November 1962

**S.O. 3700.**—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby makes the following further amendment to the notification of the Government of India in the Ministry of Works, Housing and Supply No. S.O. 1792 dated the 10th August, 1959, namely:—

In the table below the said notification, for the entry in column 2 against Serial No. 4, the following shall be substituted, namely:—

“Premises pertaining to the port of Kandla and belonging to the Central Government within the limits of the said port and Gandhidham”.

[No. 24(1)/62-EEII.]

S. L. VASUDEVA, Under Secy.

## (Department of Rehabilitation)

New Delhi, the 29th November 1962

**S.O. 3701.**—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties in the State of U.P. specified in the Schedule below for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the said evacuee properties (Specified in the schedule).

## SCHEDULE

Sl. No.	Particulars of property	Name of the locality/town in which "E.P." situated.	Name of the evacuee
1	2	3	4
1	House No. B6/258	Mohalla Madhupura, Aligarh	Sri Ahmad Ali Khan.
2	House No. C4/87-88.	Mohalla Nai Basti, Aligarh.	Sri Ishrat Ali Khan.
3	Property No. G2/126 to 132.	Mohalla Sabzi Mandi, Distt. Aligarh.	Sri Mohd. Mashkoor Ali Khan & brothers.
4	House No. 2614 & 2615.	Mohalla Khatikhana, Hathras, Distt. Aligarh.	Sri Abdul Rauf.
5	House No. 2617	Do.	Do.
6	House No. 2616 .	Do.	Do.
7	House No. 2618 .	Do.	Do.
8	House No. 2619 .	Do.	Do.
9	House No. 2620 .	Do.	Do.
10	House No. 2621 .	Do.	Do.
11	House No. 2622 .	Do.	Do.
12	House No. 2623 to 2625	Do.	Do.
13	House No. 2626 .	Do.	Do.
14	House No. 2627 .	Do.	Do.
15	House No. 2628 to 2630	Do.	Do.

[No. 1(1217)/Comp.III/Prop.]

M. J. SRIVASTAVA,  
Settlement Commissioner & Ex-Officio  
Under Secy.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

*New Delhi, the 27th November 1962*

**S.O. 3702.**—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No. 44 of 1954) the Central Government hereby appoints Shri B. N. Shukla as Assistant Settlement Officer for the purpose of performing the functions assigned to such officers by or under the said Act with effect from the date he took charge of his office.

[No. 8/249/ARG/62.]

**S.O. 3703.**—In exercise of the powers conferred by Clause (a) of Sub-section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No. 44 of 1954), the Central Government hereby appoints for the union territory of Delhi, Shri N. P. Nigam, Managing Officer in the office of the Regional Settlement Commissioner, Delhi as Managing Officer for the custody, management and disposal of Compensation Pool with effect from the date he took over charge of his office.

[No. 4(55)Admn(Prop)/58/ARG.]

**S.O. 3704.**—In exercise of the powers conferred by Clause (a) of sub-section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No. 44 of 1954), the Central Government hereby appoints for the union territory of Delhi, Shri D. D. Banga, Assistant Settlement Officer in the office of the Regional Settlement Commissioner, Delhi, as Managing Officer for the custody, management and disposal of Compensation Pool with effect from the date he took over charge of his office.

[No. 8/242/ARG/62.]

*New Delhi, the 28th November 1962*

**S.O. 3705.**—In exercise of the powers conferred by Clause (a) of sub-section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No. 44 of 1954), the Central Government hereby appoints for the union territory of Delhi, Shri Satish Chander Bhatnagar, Assistant Settlement Officer in the office of the Regional Settlement Commissioner, New Delhi as Managing Officer for the custody, management and disposal of Compensation Pool with effect from the date he took over charge of his office.

[No. 8/29/AR(Per)CSC/61.]

*New Delhi, the 3rd December 1962*

**S.O. 3706.**—In exercise of the powers conferred by Sub-section (1) of Section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (No. 44 of 1954) the Central Government hereby appoints Shri S. S. Mane as Assistant Settlement Officer for the purpose of performing the functions assigned to such officers by or under the said Act with effect from the date he took charge of his office.

[No. 8/250/ARG/62.]

KANWAR BAHADUR, Settlement Commissioner,  
(A) & Ex. Officio Dy. Secy.

**MINISTRY OF INFORMATION AND BROADCASTING**

*New Delhi, the 30th November 1962*

**S.O. 3707.**—In exercise of the powers conferred by Section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 9 read with sub-rule (2) of rule 9 and sub-rule (3) of rule 8 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby re-appoints the following persons as members of the Advisory Panel of the said Board at Madras with effect from the dates shown against them:

Smt. Kamala Damodaran, 9th November, 1962.

Shri S. N. Chamakur, 17th October, 1962.

[No. 11/4/62-FC.]

**S.O. 3708.**—In exercise of powers conferred by Section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 9 read with sub-rule (2) of rule 9 and sub-rule (3) of rule 8 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby re-appoints Shri B. K. Sarvotham Rao as a member of the Advisory Panel of the said Board at Madras with effect from 9th November, 1962.

[No. 11/4/62-FC.]

**S.O. 3709.**—In exercise of the powers conferred by Section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby appoints the following persons, after consultation with the Central Board of Film Censors, as members of the Advisory Panel of the said Board at Madras with immediate effect:

- (1) Dr. K. M. George.
- (2) Smt. Soundra Kallasm.

[No. 11/4/62-FC.]

S. PADMANABHAN, Under Secy.

### MINISTRY OF LABOUR & EMPLOYMENT

*New Delhi, the 28th November 1962*

**S.O. 3710.**—Whereas the Central Government is satisfied that the employees of the factory known as the Telephone Repairshop, Madras, belonging to the Government of India in the Ministry of Transport and Communications, Posts and Telegraphs Department, are otherwise in receipt of benefits substantially similar or superior to the benefits provided under the Employees' State Insurance Act, 1948 (34 of 1948);

Now, therefore, in exercise of the powers conferred by section 90 of the Employees' State Insurance Act, 1948, the Central Government hereby exempts the said factory from all the provisions of the said Act.

[F. No. 6(48)/62-HI.]

O. P. TALWAR, Under Secy.

*New Delhi, the 28th November 1962*

**S.O. 3711.**—In exercise of the powers conferred by section 8 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947), read with rule 3 of the Coal Mines Labour Welfare Fund Rules, 1949, the Central Government hereby appoints Shri N. N. Chatterjee, Joint Secretary to the Government of India, Ministry of Labour and Employment, as the Chairman of the Advisory Committee constituted by the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 386, dated the 9th February 1961, *vice* Secretary to the Government of India, Ministry of Labour and Employment, and makes the following further amendment in the said notification, namely:—

In the said notification, for the entries against serial No. 1, for the words "The Secretary" the words "Shri N. N. Chatterjee, Joint Secretary" shall be substituted.

[No. 2/3/62-MII.]

*New Delhi, the 3rd December 1962*

**S.O. 3712.**—In exercise of the powers conferred by sub-section (1) of section 83 of the Mines Act, 1952 (35 of 1952), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment No. G.S.R. 975 dated the 11th August 1960, namely:—

In the Schedule to the said notification, in the entries under column 1 against serial No. 6, for the words "trolley men and trammers" the words "trolleymen, trammers, lamp checkers and contraband/body searchers" shall be inserted.

[No. F. 6/11/62-MI/Am(8).]

R. C. SAKSENA, Under Secy.

*New Delhi, the 30th November, 1962*

**S.O. 3713.**—Whereas by the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 1805, dated the 4th June, 1962, the Central Government being satisfied that the public interests so required, had declared the industry for the supply of milk under the Delhi Milk Scheme to be a public utility service for the purposes of the Industrial Disputes Act, 1947 (14 of 1947), for a further period of six months from the 22nd June, 1962;

And whereas the Central Government is of the opinion that public interest requires the extension of the said period;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a further period of six months from the 22nd December, 1962.

[No. F. 1/99/62-LR. I.]

**S.O. 3714.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Digwadih Colliery and their workmen.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT  
DHANBAD**

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 (14 of 1947)

REFERENCE No. 65 OF 1961

**PARTIES:**

Employers in relation to the Digwadih Colliery—The Management of Tata Iron and Steel Co., Ltd., Jamadoba, P.O. Jealgora, Dist. Dhanbad.

**AND**

Their Workman, Shri Ganesh Mahato, Ex-Miner of Digwadih Colliery, P.O. Jealgora, Dist. Dhanbad.

**PRESENT:**

Shri Raj Kishore Prasad, M.A., B.L.,—*Presiding Officer.*

**APPEARANCES:**

*For the Employers.*—Shri G. Prasad, Chief Personnel Officer, with Shri S. N. Singh, Welfare Officer.

*For the Workman.*—Shri Ram Mitra, Secretary, Bihar Koyla Mazdoor Sabha.

*Dhanbad, dated the 19th November, 1962*

STATE: Bihar.

INDUSTRY: Coal.

**AWARD**

1. The Government of India, Ministry of Labour and Employment, by its Order No. 2/158/61-LRII, dated the 10th August, 1961, referred under Section 10(1)(d) of the Industrial Disputes Act, 1947 (14 of 1947), the following item of Dispute to the Tribunal for its adjudication:

**SCHEDULE**

“whether the dismissal of Shri Ganesh Mahato by the management of Digwadih Colliery was justified and if not, to what relief he is entitled?”

2. The Workman, represented by the Bihar Koyla Mazdoor Sabha, filed his written statement on 28th August, 1961, and, the Management also filed its written statement on 23rd September, 1961.

3. On 26th October, 1962, the management filed a petition, signed by its Chief Mining Engineer, stating that the case of the workman, Shri Ganesh Mahato, has

been re-considered by the management and he has been allowed to resume his duty from 21st October, 1962, and, therefore, the management prayed for permission to withdraw.

4. To-day, the management has filed another petition, signed by its Chief Personnel Officer, in continuation of its petition dated 26th October, 1962, that the management will pay full back wages to Shri Ganesh Mahato, the workman, from the date of his dismissal to the date of his reinstatement after deducting therefrom the total amount paid to the workman as subsistence allowance under the order of the Supreme Court.

5. Shri Ram Mitra, Secretary, Bihar Koyla Mazdoor Sabha, representing the workman, Shri Ganesh Mahato, has no objection to the reference being disposed of in terms of the aforesaid two petitions of the management and on the terms mentioned therein.

6. Consequently, as agreed between the parties, this reference is disposed of in terms of the aforesaid two petitions of the management and the dismissal of Shri Ganesh Mahato, the workman, is set aside and he is re-instated with effect from 21st October, 1962, and the management shall pay the workman, Shri Ganesh Mahato, full back wages from 24th November, 1960, the date of his dismissal, to 21st October, 1962, the date of his re-instatement, after deducting the total subsistence allowance, which the workman got under orders of the Supreme Court from the management.

7. The two petitions dated 26th October, 1962, and 19th November, 1962, filed by the Management, are marked Annexure "A" and Annexure "B", and, made parts of this Award.

8. I, accordingly, make this award and submit it to the Central Government under Section 15 of the Act.

Sd./- RAJ KISHORE PRASAD,  
Presiding Officer,  
Central Govt. Industrial Tribunal,  
Dhanbad.

DATED, DHANBAD,  
The 19th November, 1962.

#### ANNEXURE—"A"

BEFORE THE CHAIRMAN HON'BLE CENTRAL GOVERNMENT'S INDUSTRIAL TRIBUNAL, DHANBAD.

REF: No. 63 OF 1961

Employers in relation to M/s. Tata Iron and Steel Co. Ltd., Jamadoba, P.O. Jealgora, Dist. Dhanbad (Bihar)

AND

Their workman Sri Ganesh Mahato, Miner, Digwadiah colliery, P.O. Jealgora, Dist. Dhanbad (Bihar).

The Management above named beg to submit as follow:

That the case of Sri Ganesh Mahato has been re-considered by the Management and he has been allowed to resume his duty from 21st October, 1962.

It is therefore, prayed that the above mentioned reference may kindly be permitted to withdraw.

Sd./- Illegible,  
26-10-62.  
Chief Mining Engineer,  
The Tata Iron and Steel Co. Ltd.,  
Jamadoba,  
Jealgora P.O.,  
Dhanbad District.

ANNEXURE—"B"

BEFORE THE CHAIRMAN HON'BLE CENTRAL GOVERNMENT'S INDUSTRIAL TRIBUNAL, DHANBAD.

REF: No. 65 of 1961

Employers in relation to M/s. Tata Iron and Steel Co. Ltd., Jamadoba, P.O. Jealgora, Dist. Dhanbad (Bihar).

AND

Their workman, Sri Ganesh Mahato, Miner, Digwadih colliery, P.O. Jealgora, Dist. Dhanbad (Bihar).

Further to their application dated 26th October, 1962, on the above matter, the employers above mentioned submit that Sri Ganesh Mahato will be paid full back wages from the date of his dismissal to the date of re-instatement setting off against this the total amount paid to him under the orders of the Supreme Court as subsistence allowance.

Sd./- Illegible

19-11-1962.

Chief Personnel Officer,  
The Tata Iron and Steel Co., Ltd.,  
Jamadoba,  
P.O. Jealgora,  
Dist. Dhanbad.

Dated, the 19th of November, 1962.

[No. 2/158/61-LRII.]

New Delhi, the 3rd December 1962

**S.O. 3715.**—The following Order of the Industrial Tribunal, Andhra Pradesh, Hyderabad, correcting an error in its Award published with the Government of India, Ministry of Labour and Employment notification No. S.O. 2923, dated the 17th September, 1962, is reproduced below for general information:—

Under Rule 28 of the Industrial Disputes (Central) Rules, 1957, the following correction is issued to the award passed by me in Industrial Dispute No. 15 of 1961.

CORRECTION

"The date at the end of the last sentence of fifth paragraph, on page 8, may be read as '8th August, 1960' instead of '8th August, 1961'."

(Sd.) M. S. ALI KHAN, Industrial Tribunal,  
Hyderabad.

[No. 2/186/61-LRII.]

**S.O. 3716.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Sukdeo, and 44 others C/o General Secretary, Bihar Coal Miners' Union, Digwadih, P.O. Jealgora, District Dhanbad.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

In the matter of an application under Section 33A of the Industrial Disputes Act, 1947 (14 of 1947), in the matter of Reference No. 27 of 1960.

COMPLAINT No. 112 OF 1960

PARTIES:

Shri Sukdeo & 44 others, C/o. General Secretary, Bihar Coal Miners' Union, Digwadih, P.O. Jealgora, Dist. Dhanbad.—Complainants.

Versus

Chief Mining Engineer, M/s. East Indian Coal Co., P.O. Jealgora, Dist. Dhanbad.—Opposite Party.

## PRESENT:

Shri Raj Kishore Prasad, M.A., B.L.,—*Presiding Officer.*

## APPEARANCES:

*For the Complainants:*—Shri Pritish Chanda, President, Bihar Coal Miners' Union, Digwadh, P.O. Jealgora, Dist. Dhanbad.

*For the Opposite Party:*—Shri J. K. Ghosh, Advocate, M/s. Orr Dignam & Co. Solicitors, with (i) Shri B. P. Srivastav, Personnel Officer, Jardine Henderson Ltd. Mg. Agents, East Indian Coal Co. Ltd.; (ii) Shri S. B. Das Gupta, Group Personnel Officer, East Indian Coal Co. Ltd.; and, (iii) Shri J. N. Sahi Group Labour Officer, East Indian Coal Co., Ltd.,

Dhanbad, dated the 23rd November, 1962

STATE: Bihar.

INDUSTRY: Coal.

## AWARD

1. This is a Complaint, under Section 33A of the Industrial Disputes Act, 1947 (14 of 1947), by Sukdeo and 44 others, Machine-cut-Coal loaders, in 7 Pit of the Bararee Colliery belonging to the East Indian Coal Co., against reduction of their rate of wages with effect from the week ending 26th November, 1960, from Rs. 2.25 nP. to Rs. 1.56 nP. per tub during the pendency of Reference No. 27 of 1960 before this Tribunal, which they alleged to be in contravention of the Proviso to Sec. 33(2)(b) of the Act.

2. The Company filed its rejoinder on 27th February, 1961, wherein certain preliminary objections were taken to the maintainability of this Complaint.

3. The preliminary objections, at the request of the parties, were decided by me on 29th September, 1962, but the third objection "that the Complainants were not workmen concerned in the dispute" pending in Reference No. 27 of 1960 within the meaning of Section 33(2) of the Act, which went to the root of the Complaint, was left undecided to be decided later along with the merits of the complaint, as agreed between the parties.

4. To-day, Shri J. K. Ghosh, Advocate, appearing for the Management, filed a petition to the effect that "the Company does not press its objection described as the 'third objection' in the Tribunal's Order dated 29th September, 1962", and, that, "the Company, therefore, does not pray for any decision on the aforesaid objection".

5. In view of the aforesaid petition of the management its third objection, stated above, is rejected as not pressed, and, I do not express any opinion on the same.

6. Shri P. Chanda, representing the above 45 Complainants, has also filed a petition to-day to the effect that:

"The Applicants humbly submit that in view of the National Emergency that is existing to-day and keeping in line with the decision of Industrial Truce in these days of National Emergency, the Applicants deem it proper not to press the Complaint any longer and to withdraw the Complaint herein, without prejudice to the merit of what has been stated in the Complaint."

7. In view of the above petition, the Complaint, which is not pressed, is allowed to be withdrawn in terms of the said petition, which is marked Annexure "A" and made a part of this award.

8. I make the award, accordingly, and submit it to the Government under Section 15 of the Act.

Sd./- RAJ KISHORE PRASAD,

Presiding Officer,

Central Government Industrial Tribunal,

Dated, the 23rd November, 1962.

Dhanbad.



ANNEXURE "A"

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, DHANBAD

In the matter of Application No. 112 of 1960 under Section 33A of the I.D. Act, 1947 (Arising out of Ref. No. 27 of 1960).

BETWEEN:

Shri Sukdeo & Others—Applicants.

Versus

East Indian Coal Co. Ltd., Jealgora, Dhanbad—Opp. Party.

The Applicants humbly submit that in view of the National Emergency that is existing to-day and keeping in line with the decision of the Tripartite Labour body to maintain the Industrial Trace in these days of National Emergency, the Applicants deem it proper not to press the Complaint any longer and to withdraw the Complaint herein, without prejudice to the merit of what has been stated in the Complaint.

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to allow the Applicants to withdraw the Complaint in the above line.

Sd./- PRITISH CHANDA,  
President,

Bihar Coal Miners' Union, Authorised by the Applicants.

Dated, the 23rd November, 1962.

[No. 8/32/62-LRII.]

S.O. 3717.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Deodhari and 10 others C/o General Secretary, Bihar Coal Miners' Union, District Dhanbad.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT  
DHANBAD.

In the matter of an application under Section 33-A, of the Industrial Disputes Act, 1947, (14 of 47), in the matter of Reference No. 27 of 1960.

COMPLAINT NO. 109 OF 1960

PARTIES:

Shri Deodhari and 10 others, C/o. General Secretary, Bihar Coal Miners' Union, Dist. Dhanbad.—Complainants.

Versus

Chief Mining Engineer, M/s. East Indian Coal Co., P.O. Jealgora, Dist. Dhanbad.—Opposite Party.

PRESENT:

Shri Raj Kishore Prasad, M.A., B.L.,—Presiding Officer.

APPEARANCES:

For the Complainants.—Shri Pritish Chanda, President, Bihar Coal Miners' Union, Digwadli, P.O. Jealgora, Dist. Dhanbad.

For the Opposite Party.—Shri J. K. Ghosh, Advocate, M/s. Orr Dignam and Co., Solicitors, with (i) Shri B. P. Srivastav, Personnel Officer, Jardine Henderson Ltd., Mg. Agents, East Indian Coal Co., Ltd.; (ii) Shri S. B. Das Gupta, Group Personnel Officer, East Indian Coal Co., Ltd.; and, (iii) Shri J. N. Sahi, Group Labour Officer, East Indian Coal Co. Ltd.

Dhanbad, dated the 23rd November, 1962

STATE: Bihar.

INDUSTRY: Coal.

## AWARD

1. This is a Complaint, under Section 33-A, of the Industrial Disputes Act, 1947 (14 of 1947), by Deodhari and ten others, Machine-cut-Coal loaders, in 7 Pits of the Bararee Colliery belonging to the East Indian Coal Co., against reduction of their rate of wages with effect from the week ending 26th November, 1960, from Rs. 2.50 nP. to Rs. 1.56 nP. per tub during the pendency of Reference No. 27 of 1960 before this Tribunal, which they alleged to be in contravention of the Proviso to Sec. 33(2) (b) of the Act.

2. The Company filed its rejoinder on 27th February, 1961, wherein certain preliminary objections were taken to the maintainability of this Complaint.

3. The preliminary objections, at the request of the parties, were decided by me on 29th September, 1962, but the third objection "that the Complainants were not workmen concerned in the dispute" pending in Reference No. 27 of 1960 within the meaning of Section 33(2) of the Act, which went to the root of the Complaint, was left undecided to be decided later along with the merits of the complaint, as argued between the parties.

4. To-day, Shri J. K. Ghosh, Advocate, appearing for the Management, filed a petition to the effect that "the Company does not press its objection described as the "third objection" in the Tribunal's Order dated 29th September, 1962", and, that, "the Company, therefore, does not pray for any decision on the aforesaid objection."

5. In view of the aforesaid petition of the management its third objection, stated above, is rejected as not pressed, and, I do not express any opinion on the same.

6. Shri P. Chanda, representing the above eleven Complainants, has also filed a petition to-day to the effect that:

"The Applicants humbly submit that in view of the National Emergency that is existing to-day and keeping in line with the decision of the Tripartite Labour body to maintain the Industrial Truce in these days of National Emergency, the Applicants deem it proper not to press the Complaint any longer and to withdraw the Complaint herein, without prejudice to the merit of what has been stated in the Complaint."

7. In view of the above petition, the Complaint, which is not pressed, is allowed to be withdrawn in terms of the said petition, which is marked Annexure "A" and made a part of this award.

8. I make the award, accordingly, and submit it to the Government under Section 15 of the Act.

Sd./- RAJ KISHORE PRASAD,  
Presiding Officer,  
Central Govt. Industrial Tribunal,  
Dhanbad.

Dhanbad, Dated,  
The 23rd November, 1962.

## ANNEXURE "A"

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, DHANBAD.

In the matter of Application No. 109 of 1960, Under Section 33A, of the I.D. Act, 1947, (Arising out of Ref. No. 27 of 1960).

BETWEEN:

Shri Deodhari and 10 Others.—Applicants.

Versus

East Indian Coal Co., Ltd., Jealgora, Dhanbad.—Opp. Party.

The Applicants humbly submit that in view of the National Emergency that is existing to-day and keeping in line with the decision of the Tripartite Labour body to maintain the Industrial Truce in these days of National Emergency, the

Applicants deem it proper not to press the Complaint any longer and to withdraw the Complaint herein, without prejudice to the merit of what has been stated in the Complaint.

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to allow the Applicants to withdraw the Complaint in the above line.

Sd./- PRITISH CHANDA,  
President,

Bihar Coal Miners' Union,  
Authorised by the Applicants.

*Dated, the 23rd November, 1962.*

[No. 8/32/62-LR.II.]

#### ORDER

*New Delhi, the 28th November 1962*

**S.O. 3718.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the West Bokaro Colliery, Post Office Ghatotand, District Hazaribagh, Bihar and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the action of the management of the West Bokaro Colliery, Post Office Ghatotand, District Hazaribagh, in dismissing Shri Gurudas Ram, a Ropeway Fitter of the Colliery, is justified keeping in view of the nature and extent of acts or omissions committed by Shri Gurudas Ram on 14th November 1961? If not, to what relief is the workman entitled?

[No. 2/107/62-LR.II.]

A. L. HANDA, Under Secy.

#### ORDER

*New Delhi, the 29th November 1962*

**S.O. 3718.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messrs Dharsi Moolji, Bombay and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay, constituted under section 7A of the said Act.

#### SCHEDULE

- (1) How far the demand of workmen for increase in wages is justified?
- (2) How far the demand of workmen for payment of bonus for the accounting years 1960-61 and 1961-62 is justified?

[No. 28/79/62-LR.IV.]

G. JAGANNATHAN, Under Secy.

**CORRIGENDUM**

*New Delhi, the 3rd December 1962*

**S.O. 3720.**—In the preamble to the notification of Government of India in the Ministry of Labour and Employment No. S.O. 3552, dated the 20th November 1962, appearing at page 3879 in the Gazette of India, Part II, Section 3(ii), dated the 24th November 1962 for "16th November, 1962" read "16th November, 1960".

[No. LWI-I-3(45)/60.]

K. D. HAJELA, Under Secy.